

LOVIN' THE MAN: EXAMINING THE LEGAL NEXUS OF IRONY, HYPOCRISY, AND CURIOSITY

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I. INTRODUCTION

I had just finished reading *The Legends Who Lunch: A Weekend of Glory at Promised Land*, an article in Oprah Winfrey's magazine.¹ The article gave an account of a weekend at Oprah's place in California—a weekend in which Oprah honored the black women who paved the way for her success.² The weekend was devoted to those courageous black

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1. Laurie Winer, *The Legends Who Lunch: A Weekend of Glory at Promised Land*, O: THE OPRAH MAGAZINE, Aug. 2005, at 174.

2. See *id.*

women who allowed for the possibility of realizing potential and who simply opened fans to the possibility of allowing ourselves to believe, if only for a second, that we could do anything.

This article resonated with me. I sat crying on the steps of my deck, my children playing loudly in their new inflatable pool, all of us oblivious to the 100-degree August heat. I looked over and over again at the centerfold of fifty-four gorgeous black women of every shape, color, and size, thinking, “this is the most beautiful image I have ever seen.” I resolved to take this image to my office, to tape it up so that I could draw strength from it when I felt like I was drowning in a sea of whiteness, maleness, or both.³ I would draw strength from those powerful women including Diahann Carroll, Roberta Flack, Coretta Scott King, Della Reese, Cicely Tyson, Ruby Dee, Tina Turner, Dionne Warwick, Diana Ross, Kathleen Battle, Alfre Woodard, Phylicia Rashad, Judith Jamison, Anna Deavere Smith, Angela Bassett, Melba Moore, Suzan-Lori Parks, Patti LaBelle, and Maya Angelou,⁴ after whom we named our daughter. These women achieved so much, seemingly unscathed. I acknowledge, however, the impossibility of their not having some wounds—invisible damage affecting the mind and spirit. In fact, it was likely those battle scars that connected them to each other on some level and which also connected me to them, if only through admiration of their survival from afar. Their glorious images resonated with me, transfixed and transported me so that I too basked in their celebration and felt that anything was possible.

I read and reread the article; I was especially moved by Pearl Cleage’s poem *We Speak Your Names*, which Oprah commissioned.⁵ I

3. Professor Frank Cooper’s comments on “white views” are informative:

Note that when I describe “white views,” I merely refer to the dominant discourse. Not all white people participate in the discourse, and not all the participants in the discourse are white people. The mindset produced by the dominant discourse, which was initiated by (male) whites and designed to promote their interests, continues to promote norms most associated with (male) whites.

Frank R. Cooper, *Against Bipolar Black Masculinity: Intersectionality, Assimilation, Identity Performance, and Hierarchy*, 39 U.C. DAVIS L. REV. 853, 857 n.12 (2006).

4. See Winer, *supra* note 1.

5. While the entire poem was not reproduced in the article, it is available in PEARL CLEAGE, *WE SPEAK YOUR NAMES* (2006).

*My sisters, we are gathered here to speak your
names.*

*We are here because we are your daughters
as surely as if you had conceived us, nurtured us,
carried us in your wombs, and then sent us out
into the world to make our mark
and see what we see and be what we be, but better,*

am thirsty for such sustenance. As tears streamed down my face I thought "it's true, there are angels on earth."

My husband came down the stairs to the deck. Sweetly, he had made a picnic lunch for all of us. He looked at me and said something kind, but did not notice my still-red eyes, or my wet cheeks. Part of me thought he could not help it—he could not notice because he would not fully appreciate the spiritual place from which my tears flowed. I knew that he would sympathize if I had explained, or even expressed, the depth of my conflicting emotions at the moment. I was not sure if he could, however, comprehend the complexity of my emotions—I did not take that risk at the time, realizing the importance of my feelings and needing to explore them fully before unleashing them on my unsuspecting partner. Even if he could appreciate my sentiments, the reality was that I was uncertain of my ability, at that instant, to fully articulate how I felt.

In the ensuing hours, part of my critical consciousness⁶ involved doing the detective work—the internal racial analysis—to decode exactly why I elected to avoid this race-based conversation. At times the work of unpacking racial dynamics is internal; at other times it is external and collective. At all times, however, it is difficult. In choosing to do the internal work before sharing my views with my partner, I decided that I needed to come to terms with the ways in which an external sociopolitical construct⁷—race—was impacting my perspective on our

truer, deeper
because of the shining example of your own
incandescent lives.

. . . .

We speak your names.
We speak your names.

Id. at 4-6.

6. This Article borrows the "critical" in "critical consciousness" from critical race theory in order to emphasize the need to be wary of the underlying racial dynamics at work in day-to-day interactions. "Consciousness" asserts an empowered stance in defiance of the racialized bombardment encountered by many in interracial relationships. This combination of wariness and defiance is both proactive and reactive, but hopefully ultimately empowering.

7. The term "sociopolitical construct" is meant to convey the fact that there is no biological reality of race, only a socially constructed reality which gives race meaning. See Miriam R. Hill & Volker Thomas, *Strategies for Racial Identity Development: Narratives of Black and White Women in Interracial Partner Relationships*, 49 FAM. RELATIONS 193, 193 (2000) ("[R]ace is not a typology of concrete, mutually exclusive categories. We can best understand it within a social constructionist framework as the negotiated interaction between a societal phenomenon of categorization based on physical markers . . . and a personal phenomenon of identity development."); see also Audrey Smedley, "Race" and the Construction of Human Identity, 100 AM. ANTHROPOLOGIST 690, 690 (1998) ("Scholars in a variety of disciplines are increasingly holding that 'race' is a cultural invention, that it bears no intrinsic relationship to actual

interracial relationship. Ironically, part of my husband's critical consciousness involves recognizing that there will be moments of racial unease and lopsided interactions in our relationship—curious moments when, despite what I know and love about him, he personifies “da man,” moments calling for deconstruction. For instance, the frequency of asymmetrical social encounters in restaurants, banks, hotels, and other public places—such as when waiters, salesclerks, receptionists, teachers, and others talk past me—begs for exploration. I query whether this imbalance is gendered, raced, or both. That black womanhood has been devalued and ignored is nothing new, but it is still instantly jarring. In these situations—when my partner realizes that he is privileged—we seek to gently persuade or correct the speaker without exploiting the already imbalanced power structure.

For these reasons, the splendor of the celebration of black womanhood in the magazine was mesmerizing. White men see powerful white men all the time—that is the predominant image of power in America.⁸ Therefore, a vision of fifty-four rich and commanding black women is such an anomaly that it is to be revered—I was in awe. My joy at that moment stemmed from seeing the seemingly impossible put in a popular magazine for the first time in my life. Nevertheless, there was a gap, real or perceived, in my ability to share that experience with my partner. I pondered from whence this interracial communication gap originated—was it internally created or externally manufactured? My tentative answer is both—the intimate racial chasm is simultaneously a product of an externally constructed racial dynamic and the internal working through of such dynamics to fulfill love beyond racial confines.

Part II of this Article reviews *Loving v. Virginia* and the love the Lovings had for each other. It also explores the difficulty in pursuing an

human physical variations, but reflects social meanings imposed upon these variations.”). For further information on the construction of race, see generally TOMMY L. LOTT, *THE INVENTION OF RACE: BLACK CULTURE AND THE POLITICS OF REPRESENTATION* (1999); LEE D. BAKER, *FROM SAVAGE TO NEGRO: ANTHROPOLOGY AND THE CONSTRUCTION OF RACE, 1896-1954* (1998); Sharona Hoffman, *Is There a Place for “Race” as a Legal Concept?*, 36 ARIZ. ST. L.J. 1093 (2004).

8. ROBERT M. ENTMAN & ANDREW ROJECKI, *THE BLACK IMAGE IN THE WHITE MIND: MEDIA AND RACE IN AMERICA* 144-81 (2000) (detailing how television and advertising make it seem as if blacks and whites occupy entirely different universes); ALLEN G. JOHNSON, *PRIVILEGE, POWER, AND DIFFERENCE* 21-24 (2d ed. 2005) (examining how differences are socially constructed); Richard Delgado & Jean Stefancic, *Images of the Outsider in American Law and Culture: Can Free Expression Remedy Systemic Social Ills?*, 77 CORNELL L. REV. 1258, 1260 (1992) (concluding that media depictions of African Americans, Mexicans, Asians, and Native Americans were “demeaning or worse.”); S. Craig Watkins & Rana A. Emerson, *Feminist Media Criticism and Feminist Media Practices*, 571 ANNALS 151, 152, 162 (2000) (examining how the media places women in subordinate roles and discussing some ways in which pernicious notions about race permeate the media).

interracial relationship in our society. Part III attempts to situate my personal narrative within a larger sociolegal and sociopolitical context by arguing that the contemporary hostility towards interracial relationships has a long history in America. Part IV tracks this legacy and explores the ways in which Americans act out a history of racial angst, interracial unease, and hostility in encounters with black-white interracial couples. This analysis reveals a curious heightened sexualization of such relationships which is unyielding in its refusal to recognize love. Part V asserts that the personal is political, necessitating deconstruction and personal reclamation. It juxtaposes our struggles to maintain a colorblind sanctuary against sociopolitical forces with which we must contend.

Part VI turns the gaze inward to deconstruct the manner in which we, as an interracial couple, have internalized our sociolegal history. I force myself to explore the reasons for my refusal to discuss the aforementioned matters with my partner and conclude that, despite our best efforts, we are all susceptible to interracial fatigue which can prevent much needed dialogue.

II. LOVIN' IN *LOVING v. VIRGINIA*

The various *Loving v. Virginia* decisions⁹—whether the trial court decision upholding the antimiscegenation laws or the United States Supreme Court decision ultimately finding such laws unconstitutional¹⁰—present curious examples of abstracted legal reasoning. Specifically, they completely ignore the love at issue in the cases and obfuscate the essence of the intimate relationship at their core. This is unfortunate given the substance of the Lovings' claim, which Bernard Cohen, an ACLU attorney working pro bono, gracefully captured in the oral arguments before the United States Supreme Court when he relayed a message from Richard Loving: "Tell the Court I love my wife, and it is just unfair that I can't live with her in Virginia."¹¹

Richard Perry Loving and his wife Mildred Jeter Loving were arrested on July 11, 1958¹² by Sheriff R. Garnett Brooks and two

9. *Loving v. Virginia*, 388 U.S. 1 (1967); *Loving v. Virginia*, 147 S.E.2d 78 (Va. 1966); *Loving v. Virginia*, 243 F. Supp. 231 (E.D. Va. 1965).

10. *Loving*, 388 U.S. 1.

11. Robert A. Pratt, *Crossing the Color Line: A Historical Assessment and Personal Narrative of Loving v. Virginia*, 41 HOWARD L.J. 229, 239 (1998) (quoting 64 LANDMARK BRIEFS AND ARGUMENTS OF THE SUPREME COURT OF THE UNITED STATES: CONSTITUTIONAL LAW 741, 959 (Philip B. Kurland & Gerhard Casper eds., 1975)). See generally PETER WALLENSTEIN, TELL THE COURT I LOVE MY WIFE: RACE, MARRIAGE, AND LAW—AN AMERICAN HISTORY (2002).

12. *Loving*, 243 F. Supp. at 232.

deputies, who were acting on an anonymous tip.¹³ Brooks and his deputies entered the Lovings' bedroom that early morning and "demanded to know what the two of them were doing in bed together."¹⁴ Upon rejecting their responses—Richard pointed to the marriage certificate hanging on their bedroom wall and Mildred said "I'm his wife"—Sheriff Brooks took the Lovings into custody.¹⁵ In October of the same year, they were indicted on felony charges for violating the Virginia Code.¹⁶ The relevant provision, part of the Racial Integrity Act,¹⁷ read as follows:

If any white person and colored person shall go out of this State, for the purpose of being married, and with the intention of returning, and be married out of it, and afterwards return to and reside in it, cohabiting as man and wife, they shall be punished as provided in [section] 20-59, and the marriage shall be governed by the same law as if it had been solemnized in this State. The fact of their cohabitation here as man and wife shall be evidence of their marriage.¹⁸

Richard and Mildred's love had been enduring. They had known each other for most of their lives—their families lived in close proximity in rural Virginia.¹⁹ Apparently few people, black or white, were surprised that Richard and Mildred began courting when Richard was seventeen and Mildred was eleven.²⁰ Seven years later they were married in Washington, DC.²¹

After their arrest and banishment,²² the Lovings commenced their long legal journey.²³ Theirs is a love story, pure and simple. The Lovings stated that they had not been terribly interested in the civil rights movement—what they wanted was to be able to raise their three children

13. Pratt, *supra* note 11, at 236 (citing Interview with Mildred Loving in Milford, Va. By Richard A. Pratt (Oct. 12, 1994)).

14. *Id.* (citing Interview with Mildred Loving, *supra* note 13).

15. *Id.* (citing Interview with Mildred Loving, *supra* note 13).

16. *Loving*, 243 F. Supp. at 232.

17. *See Loving*, 388 U.S. at 6; *see also* Pratt, *supra* note 11, at 236.

18. VA. CODE ANN. § 20-58 (1960), *invalidated by Loving*, 388 U.S. 1.

19. *Loving*, 243 F. Supp. at 234.

20. *Id.* at 235.

21. *See id.* at 236.

22. The Lovings entered a guilty plea and were each sentenced to one year in jail. *Loving*, 388 U.S. at 3. The trial judge, however, suspended their sentences provided that the Lovings left Virginia and did not return together for twenty-five years. *Id.*

23. *See id.*

in peace.²⁴ In celebrating their ultimate victory at the Supreme Court, Richard commented that the most important change for him was that, "For the first time, I could put my arm around [Mildred] and publicly call her my wife."²⁵

Navigation of the public space, versus the private sanctuary,²⁶ is an issue requiring some deliberation on the part of many interracial couples. Like other racialized²⁷ couples, my partner and I do not have the luxury of simply venturing where we might²⁸—we often reflect upon whether certain venues will be welcoming, comfortable, or safe. In discussing this

24. Pratt, *supra* note 11, at 237 (quoting Interview with Mildred Loving, *supra* note 13).

25. *Id.* at 240 (citing Simeon Booker, *The Couple that Rocked Courts*, EBONY, Sept. 1967, at 78).

26. This Article uses "private sanctuary" to refer to the personal space, often a home, created by interracial couples as a "raceless" refuge. While race continues to exist, the private sanctuary allows for freedom from the baggage the external world foists on one as racialized other; the negative social constructs attached to skin color do not operate, or at least not quite so obviously.

27. Racialization is the process through which ascriptions are made about race and skin color, revealing that race is a social construct. People racialized as "other" are marginalized by virtue of societal perspectives rather than biological determinants. See IAN F. HANEY LÓPEZ, *WHITE BY LAW: THE LEGAL CONSTRUCTION OF RACE* 111 (1996) ("Races are social products. It follows that legal institutions and practices, as essential components of our highly legalized society, have had a hand in the construction of race."). See generally TOMMY L. LOTT, *THE INVENTION OF RACE: BLACK CULTURE AND THE POLITICS OF REPRESENTATION* (1999).

28. Couples of color and interracial couples often think about the places that they will visit together. Part of the lack of freedom stems from segregation; there were simply some places in which people of color were not welcome. Even today, there are some occasions on which hostile sentiments—such as the belief that "blacks are genetically inferior and race mixing is the nearest thing to the end of the world this side of Armageddon"—surface. Elinor Langer, *The American Neo-Nazi Movement Today*, NATION, July 16, 1990, at 82. Such sentiments hearken back to the days when lynching was commonplace, and the "quintessential lynching offence was social contact with a white woman by a black man, whether or not the contact had been mutually arranged." Emma Coleman Jordan, *Crossing the River of Blood Between Us: Lynching, Violence, Beauty, and the Paradox of Feminist History*, 3 J. GENDER RACE & JUST. 545, 558 (2000). See generally RACHEL MORAN, *INTERRACIAL INTIMACY: THE REGULATION OF RACE AND ROMANCE* 17-42 (2d ed. 2003) (exploring the ways in which the law enforced the separation of the races). As Professor Randall Kennedy noted, "There are . . . powerful forces arrayed against increased rates of black-white intermarriage. . . . Through stares, catcalls and even . . . violence, they put a pall over interracial intimacy" Randall Kennedy, *How Are We Doing with Loving? Race, Law, and Intermarriage*, 77 B.U. L. REV. 815, 820 (1997); see also ALON ZIV, *BREEDING BETWEEN THE LINES: WHY INTERRACIAL PEOPLE ARE HEALTHIER AND MORE ATTRACTIVE* 5-6 (2006) ("Many of the battles of the civil rights movement have been fought and won, but the world is still far from color-blind. Mixed marriages remain taboo and frequently lead to conflict, even violence."); Yanick St. Jean, *Let People Speak for Themselves: Interracial Unions and the General Social Survey*, 28 J. BLACK STUD. 398, 406 (1998) ("[Interracial] couples appear to be involved in two separate, conflicting lives: one public, the other private.").

matter with my partner, I realize that it is not so much that we have the desire for public validation, but rather it would be nice, when out in public, to at least be recognized as being in a legitimate relationship. With interracial couples, such validation could even take the form of welcome indifference.

Those of us in interracial relationships occasionally struggle to find a way through this public race maze. Success depends on many variables, including family and community support, context, resistance, commitment, and determination on the part of the partners to maintain a healthy relationship. Richard and Mildred must have explored these considerations together in deciding whether to challenge the Virginia statute. Undoubtedly, they did not make this decision lightly. Honest communication in any interracial relationship must include recognition of societal impositions. Being consciously critical further demands that partners in such relationships recognize that societal pressures—including rudeness, hostility, sexual probing, attempted separation, or assumptions that the relationship does not exist—might disparately impact internal racial dynamics. This, in turn, might hamper effective communication, seamless interaction, and prospects for harmony and longevity. Obviously, such societal intrusion is to be guarded against and strategically avoided, which requires mutual recognition that enhanced societal pressures are an issue.

This Article explores, often with tongue in cheek, the challenges of critical consciousness within the context of black-white interracial relationships. As it has been borne out in my experience, I will start from the premise that such relationships can exist harmoniously and are, generally, not to be distinguished from other intimate and loving relationships—they can and do endure with the same rewards and challenges faced in all relationships. While I confess to the belief that it is imperative for both partners in an interracial relationship to be critically conscious of race, racism, and identity constructs—colorblindness is a fiction, especially with regards to interracial relationships—I do not adhere to the belief that such relationships should be regarded as alien or “other.” Therefore, I do not wish to draw the comparison of the normative apple of same-race relationships to the othered orange of interracial relationships. Nor are interracial relationships likely to eradicate racism, as some people are prone to believe.²⁹ Moreover, as with all relationships, a good sense of humor is

29. For discussion of the “sunshine brigade,” my tongue-in-cheek term for those who believe that an increase in interracial relationships will eliminate racism, see *infra* notes 79-84, 412-43. See generally Jim Chen, *Unloving*, 80 IOWA L. REV. 145, 171-72 (1994) (arguing that the creolization of America offers hope for the end of racism as we know it, and that interracial intermarriage will prove that “love conquers all”). In

called for when assessing the struggles confronting many interracial couples; if we fail to recognize the elements of comedic tragedy involved in our lives, we might cry out at the sheer insanity of it all.

I would like, therefore, to explore some of the challenges facing black-white interracial couples in America. The sociolegal history of this nation has created enduring obstacles to loving across races. To be an interracial couple in the United States is definitionally a political statement—intention is irrelevant. Akin to strict-liability offenses, the politics of interracial intimacy are externally assessed, even in the absence of subjective recognition of a sociopolitically loaded relationship.³⁰ Given my position as a black woman, my perspective will be that of a racialized woman of color living, and loving a white man, in America.

Of course the history of interracial sex and love in America is long and fraught with irony, denial, and complexities. In order to situate my personal experiences, recognition of the legacy of this controversial and contested history of interracial sex and love is appropriate.³¹

dismissing “race-matching,” Professor Jim Chen celebrates an America in which we have interbred for generations: “[W]e Americans have ‘mixed people as though they were of no more consequence than the swill [we have] slopped together for [our] pigs.’ The rest of the world should be so fortunate.” *Id.* at 152 (quoting O.E. ROLVAAG, PEDER VICTORIOUS 138-39 (Nora O. Solun & O.E. Rolvaag trans., 1929)); *see also* Matthijs Kalmijn, *Trends in Black/White Intermarriage*, 72 J. SOC. FORCES 119, 141 (1993) (“[Increasing intermarriage] is further consistent with . . . a continuous decline in white prejudice against blacks. The apparent growth of social tolerance towards blacks may make the marriage seekers themselves less reluctant to intermarry, and it may make it easier for the unprejudiced to marry because of the weakening social norms against such marriages.” (citations omitted)); St. Jean, *supra* note 28, at 398 (“[Many scholars] have . . . emphasized the ideal nature of intermarriage as a symbol of social equality. Professor G.A. Borghese . . . asserts that ‘only when [the] two bloods mix freely in marriage will [the] color problem be solved.’” (citations omitted)). *But see* Garrett Epps, *What’s Loving Got to Do with It?*, 81 IOWA L. REV. 1489, 1496 (1996) (“Professor Chen’s reasoning . . . seems to be that . . . intermarriage of the races offers hope for a cessation of racial hostility and oppression This logic is at best elusive.”); Peter Kwan, *Unconvincing*, 81 IOWA L. REV. 1557, 1570 (1996) (“[I]t is far from clear there exists a necessary relationship between racial hatred at individual levels and at societal levels, with the diminution of one necessitating the diminution of the other.”).

30. In criminal law, strict-liability offenses are those which require only a guilty act and not a mental state of mind. *See, e.g.*, 21 AM. JUR. 2d *Criminal Law* § 144 (1998). Therefore, even if an interracial couple lacks subjective mental awareness of the political implications of their relationship, the “guilty act” of their relationship is sufficient to merit sanction.

31. For comprehensive analyses of interracial relationships in the United States, *see* MORAN, *supra* note 28; RANDALL KENNEDY, *INTER-RACIAL INTIMACIES: SEX, MARRIAGE, IDENTITY, AND ADOPTION* (2003).

III. SITUATING MY NARRATIVE WITHIN OUR SOCIOLEGAL HISTORY

It would be an understatement to say that Americans have been fixated on race for some time. Yet, many in America would deny the existence of racism.³² Certainly, today it would seem to be in poor taste to frankly proclaim one's racial prejudices and predilections in most contexts, but even a cursory review of personal ads,³³ websites, and internet chat rooms³⁴ reveals an explicit communication of racial preferences when it comes to intimacy and sex. In the realm of interracial love and sex, therefore, it is curiously acceptable to assert one's racial preferences. This is an openly acknowledged and culturally accepted form of sexual racial profiling.³⁵ Perhaps part of the reason for such candor in this area is a defiant expression of preference for interracial intimacy, which is strikingly elucidated in the personals, usually as sexual adventure or exploration.³⁶ The other part of this rationale is the opposite, however. America's longstanding preoccupation with ensuring segregation in the most intimate and meaningful areas of our lives is also clear.

The rationales for such segregation included "contamination theory"—the belief that procreating with blacks was so pathological that

32. See, e.g., Charles R. Lawrence III, *The Id, The Ego, and Equal Protection: Reckoning with Unconscious Racism*, 39 STAN. L. REV. 317 (1987); BELL HOOKS, *KILLING RAGE: ENDING RACISM* 26 (1996) ("Racism can . . . be represented as an issue for blacks only . . . while all whites continue to be brainwashed to deny the existence of an institutionalized racist structure that they work to perpetuate and maintain."). One of the strategies adopted by counselors to help people overcome their racism is to help them understand that colorblindness is a fiction. See HANDBOOK OF MULTICULTURAL COUNSELING 270 (Joseph G. Ponterotto et al. eds., 2001) ("Similar to White privilege, colorblind racial attitudes (CoBra) are rooted in the structure of society. Essentially, to adopt a color-blind racial perspective is to deny the existence of ideological and structural racism and to believe that race does not play a meaningful role in people's lived experiences.").

33. For example, Kennedy contacted people who had indicated racial preferences for same-race mates or sexual partners in their personal ads to inquire why they discriminated in their ads. Randall Kennedy, *Interracial Intimacies: Sex, Marriage, Identity, Adoption*, 17 HARV. BLACKLETTER J. 57, 78-81 (2001). The responses he received included white supremacy, surprise that the ad would be so characterized, and simple preference. *Id.*

34. KENNEDY, *supra* note 31, at 27 ("On the internet and in newspapers and magazines across the country, people openly and self-consciously deploy racially discriminatory advertising in their search for romantic companionship.").

35. See *id.* at 27-32 (discussing "racial selectivity" as seen in personal ads).

36. See *id.* at 29, 31 ("[Respondents'] racial signals evidenced an aesthetic or erotic preference."); see also MORAN, *supra* note 28, at 115 ("[A] popular explanation of interracial attraction is exoticism, which treats racial difference as a source of sexual titillation.").

it would lower the white race in the hierarchy of human beings.³⁷ Some saw this theory as flowing from the natural order of things, as dictated by religious teachings: If God had intended that blacks and whites mingle, he would not have separated them geographically.³⁸ Separation was seen as being naturally, scientifically, and religiously justified.³⁹

As in all contexts, there is a distinction between making love and having sex in interracial relationships. The latter has certainly been an American mainstay since slavery. The former—allowing for the possibility of compatibility, tenderness, and emotional connection—was likely more disconcerting given that relationships are ideally predicated upon equality and reciprocity. With interracial relationships, however, the judgment of whether the partners are actually in love is often made externally, with little regard to the subjective determinations of the parties involved. Historically, interracial sexual liaisons—consensual or otherwise—were closely regulated, given their ability to produce racially ambiguous offspring.⁴⁰ To police the American color line required clear racial distinctions.⁴¹ Interracial unions represent the possibility of racial

37. Professor Jason A. Gillmer has observed the following:

Although the status of the very first mulattoes was uncertain, planter elites quickly settled on the rule that the children would follow the condition of the mother. This rule—known as the rule of *partus sequitor ventrem*—was adopted despite the English common law tradition that the child followed the status of the father. . . . The issue arose . . . because white men were fathering children with black women, creating a pressing social problem as Virginia eased into a society in which blackness meant slavery and whiteness meant freedom.

Jason A. Gillmer, *Suing for Freedom: Interracial Sex, Slave Law, and Racial Identity in the Post-Revolutionary and Antebellum South*, 82 N.C. L. REV. 535, 560 (2004).

38. See Gerald M. Platt & Rhys H. Williams, *Ideological Language and Social Movement Mobilization: A Sociolinguistic Analysis of Segregationists' Ideologies*, 20 SOC. THEORY 328, 343-44 (2002) ("In the religious ideological construction of the segregationist worldview, separation of the races is a mark of God's plan for humankind—importantly, a direct reflection of the sacred order in the natural world."). The trial judge in the Lovings's case, Judge Leon M. Bazile, echoed this logic:

Almighty God created the races white, black, yellow, malay, and red, and he placed them on separate continents. And but for the interference with his arrangement there would be no cause for such marriages. The fact that he separated the races shows that he did not intend for the races to mix.

Loving v. Virginia, 388 U.S. 1, 3 (1967) (quoting Judge Leon M. Bazile).

39. KENNEDY, *supra* note 31, at 18-19; see also GEORGE M. FREDRICKSON, *THE BLACK IMAGE IN THE WHITE MIND: THE DEBATE ON AFRO-AMERICAN CHARACTER AND DESTINY, 1817-1914*, at 71-96 (1987).

40. See MORAN, *supra* note 28, at 20-27.

41. See *id.* at 18 ("Whenever racial ambiguity threatened the established social order, statutory restrictions on interracial sex and marriage were imposed to keep the color line firmly in place.")

transcendence and America was not—and is not—ready for that prospect.⁴² This theory was also evident in the work of scholars who “warned that American democracy would be in jeopardy if the color line were compromised,” thereby creating a nation of mongrels.⁴³ These men feared that a burgeoning mixed-race population would convert America into a nation made up of a racially indeterminate populace, like Mexico⁴⁴ or Puerto Rico.⁴⁵ Commenting on Caroline County, the area from which the Lovings came and in which they chose to live once married, Professor Robert A. Pratt states:

[m]any light-skinned blacks . . . “crossed over” into the white race when they thought it convenient to do so. For some, it was a form of self-denial; for others, it was their way of playing a “practical joke” on white society. Still others . . . used their light complexions to infiltrate white society, enabling them to operate like “secret agents” for the black race.⁴⁶

42. We fixate on racially categorizing people, although our ascriptions are sometimes incorrect. See KEVIN JOHNSON, HOW DID YOU GET TO BE MEXICAN? A WHITE/BROWN MAN'S SEARCH FOR IDENTITY 179 (1999); David A. Hollinger, *Postethnic America: Beyond Multiculturalism*, in MIXED RACE AMERICA AND THE LAW: A READER 486, at 486 (Kevin R. Johnson ed., 2003). Recently there has been much discussion about Senator Barack Obama's race. See, e.g., Stanley Crouch, *What Obama Isn't: Black Like Me on Race*, N.Y. DAILY NEWS, Nov. 2, 2006, http://www.nydailynews.com/opinions/2006/11/02/2006-11-02_what_obama_isnt_black_like_me_on_race.html (positing that because Obama has only experienced “light versions of typical racial stereotypes” that he is not African American and would have to run as “as the son of a white woman and an African immigrant”); Scott L. Malcomson, *An Appeal Beyond Race*, N.Y. TIMES, Aug. 1, 2004, § 4 (Magazine), at 5 (discussing the controversy surrounding whether Obama, as a mixed-race, black-identified man, will be able to appeal to white voters); Michael McAuliff, *More Ready to Accept Black Prez*, N.Y. DAILY NEWS, Dec. 17, 2006, at 14. This unease with racial ambiguity leads to the inevitable questions “what are you?” and “where are your parents from?” See ANGELA NISSEL, *MIXED: MY LIFE IN BLACK AND WHITE* (2006). See generally WHAT ARE YOU?: VOICES OF MIXED-RACE YOUNG PEOPLE (Pearl Gaskins ed., 1999); KERRY ANN ROCKQUEMORE & DAVID L. BRUNSMAN, *BEYOND BLACK: BIRACIAL IDENTITY IN AMERICA* (2002).

I too am a culprit because I seek to indoctrinate my mixed-race children into a black identity. My thinking echoes the archaic one-drop rule, but with a twist: I believe that, in racially segregated St. Louis, this is for their own benefit. It remains unclear to me whether, by telling my children that they are mixed-race yet black-identified, I am denying their transcendent racial realities or preparing them for an America which remains fixated on racial categorization. I am sure my children will educate me.

43. MORAN, *supra* note 28, at 57; see KENNEDY, *supra* note 31, at 13-14.

44. See MORAN, *supra* note 28, at 57.

45. See RUBIN FRANCIS WESTON, *RACISM IN U.S. IMPERIALISM: THE INFLUENCE OF RACIAL ASSUMPTIONS ON AMERICAN FOREIGN POLICY, 1893-1946*, at 194-210 (1972).

46. Pratt, *supra* note 11, at 235 n.33.

Such infiltration would undoubtedly upset the system of American apartheid.⁴⁷ That judges elaborated on the supposed dangers of interracial sex and love⁴⁸ reveals the vital sociohistorical place such relationships, and their progeny, occupied in the American imagination. This culture of sexual and racial preoccupation continues to have contemporary resonance, affecting both partners in a black-white interracial relationship.⁴⁹ Given this sociopolitical landscape, the partners racialized as "other" know or ought to know the manner in which others perceive them. By engaging in intimate interracial relationships, the "othered" partners open themselves to ridicule, scorn, and outright hostility—rising occasionally to the level of murder.⁵⁰ Similar societal consequences befall the majority partner in such relationships—the relationship is at times interpreted as an exercise in fetishization, adventure, self-hatred, payback, or exploration.⁵¹

Such relationships demand societal interpretation. While there are those who fixate on the transformative potential of interracial couples and their children,⁵² other observers view the interracial relationship as being not about transcendence, love, or tenderness, but perversion,

47. See MORAN, *supra* note 28, at 18, 20-23. See generally DOUGLAS S. MASSEY & NANCY A. DENTON, *AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS* (1995).

48. See, e.g., *State v. Jackson*, 80 Mo. 175, 176 (1883) (commenting that interracial relationships were akin to incest and thus were within the lawful ambit of state regulation); *State v. Gibson*, 36 Ind. 389, 403-04 (1871) (extolling marriage as an "institution established by God" and warning of the dangers of corruption of blood posed by racial amalgamation); *Scott v. Georgia*, 39 Ga. 321, 324 (1869) (analogizing interracial marriage to marriage between "idiots," as regulating both are "necessary and proper regulations").

49. KENNEDY, *supra* note 31, at 14 ("Race has—and has long had—a massive presence in the sexual imaginations of Americans."); MORAN, *supra* note 28, at 115-16 (noting the sexual titillation and exoticism of interracial relationships); see also Jared Sexton, *The Consequence of Race Mixture: Racialised Barriers and the Politics of Desire*, 9 SOC. IDENTITIES 241, 242 (2003) (exploring "the domain of sexuality," which is intrinsic to the construction of race as sexual predilection).

50. See MORAN, *supra* note 28, at 25 (recognizing the role of vigilantes in policing interracial relationships through actual and threatened violence); KENNEDY, *supra* note 31, at 17 ("Sexual anxieties have prompted intense policing of the race line by a wide variety of means—from antimiscegenation laws to lynchings.").

51. See Anita Kathy Foeman & Teresa Nance, *From Miscegenation to Multiculturalism: Perceptions and Stages of Interracial Relationship Development*, 29 J. BLACK STUD. 540, 545 (1999); MARIA P.P. ROOT, *LOVE'S REVOLUTION: INTERRACIAL MARRIAGE* 49-70 (2001).

52. See, e.g., Kennedy, *supra* note 28, at 818-19 (arguing that increasing black-white intermarriage is one way to alleviate black isolation and social, political, and economic deprivation); see also *infra* Part IV.

sexual acting out, rebellion, deviance, or curiosity.⁵³ For many Americans, the history of this nation means that such relationships are simply not normal.⁵⁴ Indeed, it is telling that the ACLU, not the NAACP, took the Lovings's case.⁵⁵ NAACP Executive Secretary Roy Wilkins commented that "[m]arriage is a personal matter on which the NAACP takes no position. The only kinds of marriage we are for is the happy marriage, the success of which depends on the two individuals involved."⁵⁶ These comments may betray black activists' ambivalence towards the difficulties inherent in interracial relationships. It seems that the NAACP leadership did not recognize the many ways in which the black-white interracial relationship's survival was not solely dependent on "the two individuals involved." Rather, such relationships turn, to a large extent, on racism and social pressures.

Judges seeking to uphold antiscegenation laws often recast such threats in a positive light. The court in *Naim v. Naim*, which involved a marriage between a white woman and an Asian man, used such rhetoric:

Manifestly, said the court [in *Green v. State*], it is for the peace and happiness of the colored race, as well as of the white, that laws prohibiting intermarriage of the races should exist, and "How, then, can it be maintained that the States of this Union, in adopting amendments which make no allusion to such intermarriages, intended to deprive themselves of the important power of regulating matters of so great consequence and delicacy within their own borders for themselves, as it always was their undoubted right to do."⁵⁷

The insistent and unapologetic comments of Sheriff Brooks, who originally arrested the Lovings, reveals the enduring nature of antiscegenist thoughts. Speaking on *Loving's* twenty-fifth anniversary, he said "I was acting according to the law at the time, and I still think it

53. See MORAN, *supra* note 28, at 113-16 (discussing sociohistorical research and several possible rationales for interracial relationships, including racialized exceptionalism and exoticism).

54. See Kennedy, *supra* note 28, at 820 ("Some polls suggest that as much as twenty percent of the white population continues to believe that interracial marriage should be illegal." (citing Isabel Wilkerson, *Black-White Marriages Rise, but Couples Still Face Scorn*, N.Y. TIMES, Dec. 2, 1991, at A1)); Foeman & Nance, *supra* note 51, at 542-43 (1999) (listing five myths about interracial relationships).

55. Pratt, *supra* note 11, at 238 n.50.

56. *Id.* (quoting Roy Wilkins). Ultimately, the NAACP, together with the Japanese American Citizens League and a coalition of Catholic bishops, did submit briefs to the United States Supreme Court in support of the Lovings's position. See *id.* at 238-39.

57. 87 S.E.2d 749, 752 (quoting *Green v. State*, 58 Ala. 190, 195 (1877)).

should be on the books. I don't think a white person should marry a black person. I'm from the old school. The Lord made sparrows and robins, not to mix with one another."⁵⁸

Even a cursory review of American political discourse and jurisprudence reveals this deep-seated historical fascination with, and repulsion by, the thought of intimate interracial mingling. For instance, Benjamin Franklin, in *Observations Concerning the Increase of Mankind*, was preoccupied with racial segregation to maintain white racial purity, culture, language, and even complexion:

[W]hy increase the Sons of Africa, by Planting them in America, where we have so fair an Opportunity, by excluding all Blacks and Tawneys, of increasing the lovely White and Red? But perhaps I am partial to the Complexion of my Country, for such kind of Partiality is natural to Mankind.⁵⁹

Franklin was fixated on the opportunity that would be lost if America did not refuse to increase the number of undesirable races within its boundaries. Interestingly, it would appear that Franklin was willing to forgo the profits from slavery to preserve racial homogeneity. Other Founding Fathers candidly professed their racial preferences. Somewhat hypocritically—or at least ironically⁶⁰—Thomas Jefferson, after speaking about the inferiority of blacks in beauty and other categories,⁶¹ advocated for the removal of freed blacks “beyond the reach of mixture.”⁶² Jefferson also expressed concern for creating a pure white nation.⁶³ The desire to protect white racial purity is highlighted by Jefferson's comments that blacks’ “amalgamation with the other color

58. Pratt, *supra* note 11, at 242 (quoting David Margolick, *A Mixed Marriage's 25th Anniversary of Legality*, N.Y. TIMES, June 12, 1992, at B20).

59. 4 BENJAMIN FRANKLIN, *Observations Concerning the Increase of Mankind*, in PAPERS OF BENJAMIN FRANKLIN 225, 234 (Leonard W. Barabee et al. eds., 1961).

60. Jefferson's statements are ironic because of his longstanding “relationship” with his slave Sally Hemings, with whom he fathered several children. See PAUL FINKELMAN, *SLAVERY AND THE FOUNDERS: RACE AND LIBERTY IN THE AGES OF JEFFERSON* 165 (2d ed. 2001) (discussing evidence supporting the conclusion that Jefferson fathered some, if not all, of Hemings's children). See generally Stephanie Phillips, *Claiming Our Foremothers: The Legend of Sally Hemings and the Task of Black Feminist Theory*, 8 HASTINGS WOMEN'S L.J. 401, 406-17 (1997). For a discussion of the DNA evidence which confirmed that Jefferson fathered children by Sally Hemings, see *The History of a Secret: How the Truth of Jefferson and Hemings Became a Lie, Then Became the Truth Again*, <http://www.pbs.org/wgbh/pages/frontline/shows/jefferson/video/report4.html> (last visited Feb. 15, 2007).

61. See THOMAS JEFFERSON, *NOTES OF THE STATE OF VIRGINIA* 149-54 (1853).

62. *Id.* at 155.

63. See *id.*

produces a degradation to which no lover of his country, no lover of excellence in the human character can innocently consent."⁶⁴

Such rhetoric, however, is inconsistent with Jefferson's relationship with Sally Hemmings.⁶⁵ One possible reading of his comments is that they are an excessive denial and a calculated rejection in the face of contact, intimacy, and perhaps constrained love. While we have no clear record of Hemmings's feelings towards Jefferson, we might reflect on his comments and extrapolate his take on the situation.

Judicial pronouncements echoed the Founding Fathers's concerns about interracial sex and intimacy. Evidence of this can be found in the landmark *Dred Scott Case*,⁶⁶ in which the Supreme Court decided that a slave who moved to a free state was not thereby emancipated.⁶⁷ In justifying this denial of citizenship rights, Chief Justice Roger Taney referenced the common sentiment that blacks were "so far inferior, that they had no rights which the white man was bound to respect."⁶⁸ According to the Chief Justice, "the negro might justly and lawfully be reduced to slavery for his own benefit."⁶⁹ Relating this inherent debasement to the laws against interracial mixing, he stated that laws prohibiting intermarriage in the colonies "show that a perpetual and impassable barrier was intended to be erected between the white race and the one which they had reduced to slavery."⁷⁰

Despite the passage of forty years, the Court clung to the same racial purity justifications in upholding the separate-but-equal doctrine in *Plessy v. Ferguson*.⁷¹ Specifically, Justice Henry Billings Brown acknowledged that, while laws forbidding intermarriage might interfere with an individual's freedom to contract, they "have been universally recognized as within the police power of the state."⁷²

Delivering the majority opinion in *Loving*, Chief Justice Earl Warren exposed antimiscegenation laws for what they were—laws designed to preserve white supremacy: "The fact that Virginia prohibits only interracial marriages involving white persons demonstrates that the racial classifications must stand on their own justification, as measures designed to maintain White Supremacy."⁷³

64. Letter from Thomas Jefferson to Edward Coles (Aug. 25, 1814), in PORTABLE THOMAS JEFFERSON, at 544, 546 (Merrill D. Peterson ed., 1975).

65. See *supra* note 60.

66. 60 U.S. 393 (1857).

67. See *id.* at 458-59.

68. *Id.* at 407.

69. *Id.*

70. *Id.* at 409.

71. 163 U.S. 537 (1896).

72. *Id.* at 545.

73. *Loving v. Virginia*, 388 U.S. 1, 11-12.

IV. ACTING OUT OF OUR HISTORY

To blacks, the reality of interracial sex is an open secret—the white relative is commonplace, even in the face of ignorance, denial, or hostility on the part of the white relative.⁷⁴ Whites, however, seem to have greater difficulty acknowledging their black kin⁷⁵ or blood.⁷⁶ “In this country . . . the fact of African ancestry among whites ranks up there with family incest, murder, and suicide as one of the bitterest and most difficult pills for white Americans to swallow.”⁷⁷ There seems, therefore, to be little racial resonance for most white Americans, who dare not acknowledge their own, or their family’s, interracial sexual liaisons. The logic is simple:

74. For instance, in analyzing the Louisiana legislature’s definition of blackness as “one-thirty-second black,” Ursula M. Brown writes:

With one-thirty-second ‘black blood’ being the equivalent of one great-great-grandparent, and people rarely knowing their ancestors more than a few generations back, one must assume that quite a few people regarded themselves as white, when in actuality they should have viewed and defined themselves as black. Thus many Americans may have wittingly or unwittingly violated racial status laws. It is estimated that 30 to 70 percent of African Americans have white relatives in their ancestral history and that a significant proportion of white-identified people have a multiracial background.

URSULA M. BROWN, *THE INTERRACIAL EXPERIENCE: GROWING UP BLACK/WHITE RACIALLY MIXED IN THE UNITED STATES* 18 (2000) (citation omitted). See generally ESSIE MAE WASHINGTON-WILLIAMS WITH WILLIAM STADIEM, *DEAR SENATOR: A MEMOIR BY THE DAUGHTER OF STROM THURMOND* (2005); ANNETTE GORDON-REED, *THOMAS JEFFERSON AND SALLY HEMINGS: AN AMERICAN CONTROVERSY* (1997) (analyzing the evidence of the Jefferson-Heming affair, which is believed to have lasted thirty years); see also Kennedy, *supra* note 33, at 66-67.

75. See Adrian Piper, *Passing for White, Passing for Black*, 58 *TRANSITION* 4, 16 (1992); Osagie K. Obasogie, *Anything But a Hypocrite: Interactional Musings on Race, Colorblindness, and the Redemption of Strom Thurmond*, 18 *YALE J.L. & FEMINISM* 451 (2006) (exploring the sexual predation of the late Senator Strom Thurmond as a continuation of the plantation “relationships” many white masters had with their slaves).

76. GREGORY HOWARD WILLIAMS, *LIFE ON THE COLOR LINE: THE TRUE STORY OF A WHITE BOY WHO DISCOVERED HE WAS BLACK* (1995); Jeff Junerth, *A Big White Lie?*, *ORLANDO SENTINEL*, Sept. 18, 2005, at F1 (recounting the story of Judith Hartmann, a white woman who—in order to conceal the fact that she was pregnant by a black man—told her husband and, later, her son, David, that the color of David’s skin was the result of a disease called melanism and that he was lucky that the skin discoloration was uniform rather than in patches).

77. Piper, *supra* note 75, at 17.

[A]ccording to [the one-drop rule], a white who acknowledges any African ancestry implicitly acknowledges being black—a social condition, more than an identity, that no white person would voluntarily assume, even in imagination. . . .

....

The primary issue for them is not what they might have to give away by admitting that they are in fact black, but rather what they have to lose. What they have to lose, of course, is social status—and, insofar as their self-esteem is based on their social status as whites, self-esteem as well.⁷⁸

The notable exception to such denial is the contemporary commentator who sees the interracial relationship as the potential liberation of America from archaic racial reasoning.⁷⁹ This Article will refer to these few enchanted souls as the “sunshine brigade.” For them, the dawning of the interracial age brings a promise contemplated, but clearly unrealized, during the civil rights movement.⁸⁰ Members of the sunshine brigade are the first to zealously embrace such relationships. They, however, celebrate the relationship as proof of American colorblindness.⁸¹ People moved by such sentiments are prone to make proclamations like “it wouldn’t matter if you were black, red, purple or green.” There are many problems with the sunshine brigade. First blackness and whiteness have momentous salience in America. Second, the sunshine brigade sees entering interracial relationships—or the support thereof—as acts of defiance in the face of American racist norms—proof of their own good racial politics.

The sunshine brigade adores the culmination of interracial intimacies in the mixed-race child. They see in these children all that is good about America—liberation, individual autonomy, transformative potential, and the fulfillment of destiny.⁸² To them, mixed-race children

78. *Id.* at 18-19.

79. See Kennedy, *supra* note 28, at 818 (“[T]he realities reflected by [the increased rate of intermarriage] show ‘a strong, unambiguous trend toward integration within American families.’” (quoting Douglas J. Besharov & Timothy S. Sullivan, *One Flesh*, NEW DEMOCRAT, July/Aug. 1996, at 19, 21)); see also Chen, *supra* note 29, at 153. (“Whatever else it might honor, multicultural America must surely venerate the ‘half-breed’ survivors who endured and eventually conquered racism.”).

80. See Kennedy, *supra* note 28, at 818.

81. See *id.*; see also Chen, *supra* note 29, at 151-56.

82. KENNEDY, *supra* note 31, at 37 (“[A]gainst the tragic backdrop of American history, the flowering of multiracial intimacy is a profoundly moving and encouraging development, one that lends support to Frederick Douglass’s belief that eventually ‘the white and colored people of this country [can] be blended into a common nationality, and enjoy together . . . the inestimable blessings of life, liberty, and the pursuit of happiness.’” (citation omitted)). But see MORAN, *supra* note 28, at 178 (“The

are proof-positive that the civil rights movement succeeded and that "we have overcome."⁸³

The sunshine brigade's perspective may be grounded in a genuine hope for a future where race no longer matters. It is still, however, fetishized treatment of the interracial couple and requires reflection and tactics of self-preservation on the part of both partners in order to withstand it. Specifically, at times the spectacle of such relationships is in great demand, co-opted to prove "how far we have come."⁸⁴ At other times, external observers devalue or despise them.⁸⁵ This means that the interracial couple provides a vehicle through which external operators seek to establish a racial stance—at times the racial posturing is founded in good will; at other times it is opportunistic. In either case, critical consciousness requires that both partners carefully parse these racial attitudes.

Despite the sunshine brigade's good intentions, many white Americans still consider notions of racial purity legitimate.⁸⁶ Curiously, it would appear that many Americans can simultaneously cling to notions of colorblindness and profess racial preferences for sexual partners.⁸⁷ Perhaps these are not as diametrically opposed as one might imagine. After all, a slave owner could dehumanize slaves while having sexual

responsibility of bridging racial divides is a heavy burden to place on multiracial people, who did not even choose their mixed-race identities. . . . Far from being a sign that America's racial problems are now solved, today's tiny multiracial population is a mark of progress that has just begun.").

83. See ALISON STEIN WELLNER, POPULATION REF. BUR., U.S. ATTITUDES TOWARD INTERRACIAL DATING ARE LIBERALIZING (2005), <http://www.prb.org/Articles/2005/USAttitudesTowardInterracialDatingAreLiberalizing.aspx> (remarking that—as it was not so long ago that interracial marriages were illegal—many sociologists view them as indicators of American racial progress.)

84. KENNEDY, *supra* note 31, at 36-37, 519-20 (asserting that the increase in interracial relationships is a proxy for improved race relations).

85. *Id.* at 214-28 (discussing the governmental powers brought to bear against those in interracial relationships); see also Yuma Wilson, *The Colorblind Heart*, S.F. CHRON., July 27, 1998, at A1 (exploring the difficulties encountered by young people in interracial relationships due to peer group and parental hostility).

86. See St. Jean, *supra* note 28, at 404-05; see also Herbert Hovenkamp, *Social Science and Segregation Before Brown*, 1985 DUKE L.J. 624.

87. KENNEDY, *supra* note 31, at 32-33 ("Many Americans talk of wanting to create a society in which racial boundaries have disappeared and race no longer matters to anyone. At the same time, though, many of these same people either organize themselves . . . around racial signposts or support others who do"); see also WELLNER, *supra* note 83 ("Many people who are honestly accepting of equal treatment across a wide range of social interaction would finally draw the line when it came to [a romantic relationship] between the race groups." (quoting Tom Smith, director of the General Social Survey at the National Opinion Research Center at the University of Chicago)); MORAN, *supra* note 28, at 103 (discussing the fact that the majority of Americans marry within their own race).

relationships with them.⁸⁸ Indeed, the interracial sexual relationship might be used, in a perverse way, to further the essential debasement of the slave. Sex without guilt, obligation, or connection evinced the hierarchical ordering of historical black-white sexual encounters. Love between the innately unequal was not necessary because—recalling Chief Justice Taney’s statement—the whole black race suffered from “the deepest degradation.”⁸⁹ To allow for the possibility of interracial love, caring, or bonding would, therefore, upset the system of American apartheid which relied heavily on racial classifications, which facilitated conceptual distance, even in the face of actual proximity. In a white man–black woman relationship, the white partner is, therefore, beyond societal comprehension for sully himself with an interracial relationship; historically, sex could be had without any obligations. Therefore, existence of an actual relationship defies the expectations of many observers.

For our tenth anniversary, my husband and I went to an all-inclusive resort in Jamaica. It was our first such over-the-top vacation and we were thoroughly enjoying our time alone, it being our first trip without the children. Enjoying digestives in the piano lounge, the query of the man sitting next to us at the bar shocked us: “Are you two porn stars?” he asked. I nearly fell off the barstool. After regaining my composure, I explained to him that we were vacationing in celebration of our tenth wedding anniversary, that we had three children, that I was a law professor, and that my husband worked in film (but not that way). I honestly cannot remember exactly what my husband said, but he did mention, snidely, that we would have a lot more money if we were porn stars and wouldn’t be driving a minivan and a Cavalier—I doubt we were very coherent. We were shocked and had no time to summon the full force of our annoyance.⁹⁰ My husband has indicated that his annoyance has since dissipated and that the intruder was merely pathetic.

88. For example, in one case

[a] slave named Celia was repeatedly raped by her widowed master, and twice impregnated by him. The master’s sexual assaults continued even after Celia became romantically involved with another slave, George, who eventually insisted that Celia bring an end to the master’s abuse. Celia, by this time pregnant again, killed the master and burned his body. Ironically, George revealed Celia’s crime. George escaped. Celia was tried and hanged after giving birth to a stillborn child.

R. Richard Banks, *Intimacy and Racial Equality: The Limits of Antidiscrimination*, 38 HARV. C.R.-C.L. L. REV. 455, 460 (2003) (book review); see also Dena S. Davis, *Genetic Research and Communal Narratives*, 42 JURIMETRICS J. 199, 204 (2002) (“[S]lave concubines were a common fact of plantation life.”).

89. *The Dred Scott Case*, 60 U.S. 393, 409 (1857).

90. Patricia Williams writes,

There in the lounge, an external assessor and his lascivious questioning eclipsed our romantic musings. Our critical consciousness demanded that we both simultaneously "claim the normal."⁹¹ We both used the tried-and-true strategy used by many interracial couples—we constructed our lives like everyone else's in order to highlight the banality of it all.⁹² No, we are not porn stars; we wanted, in that moment, to blend in and not be seen—nothing unusual here, no racialized spectacle to be observed—just plain, ordinary, and racially average. Interestingly, in commenting on the fact that she was just "an ordinary black woman who fell in love with an ordinary white man,"⁹³ Mildred Loving made the following comments almost twenty years after her beloved Richard tragically died in an automobile accident⁹⁴:

We weren't bothering anyone. And if we hurt some people's feelings, that was just too bad. All we ever wanted was to get married, because we loved each other. Some people will never change, but that's their problem, not mine. I married the only man I had ever loved, and I'm happy for the time we had together. For me, that was enough.⁹⁵

Despite the ordinariness of the love my partner and I share, the reality is that the rhetoric of sexuality is a central component of our cultural script. Sex and sexuality are used as shorthand in attempts to comprehend race. It would appear that the black-white couple has such sociolegal force in America precisely because sex and sexuality are a significant part of how we experience race as a concept. One of the sexual exclusions on the Cambria List—a list recommending that certain

Living life as the pornographic target of another's fantasies is always a nightmare, even when the fantasy is one of idealized desire—never mind when the fantasy is one of disdainful vilification. Life as a bull's-eye has nothing to do with who you really are, or the statistical realities of the group you represent.

PATRICIA J. WILLIAMS, *THE ROOSTER'S EGG* 170 (1995).

91. See Dustin R. Alcalá, *Physical Boundaries of Color/Cultural Boundaries of Place*, 9 *BERKELEY MCNAIR RES. J.* 93, 97 (2001) ("Claiming ordinariness may also be a way of claiming achievement over racism. Couples . . . seek to enjoy the ordinariness of married life as well as the uniqueness of their multicultural relationship. Their challenges, argument content, and conflict resolution strategies are common to most couples." (citation omitted)).

92. See *id.* (discussing the tactic of interracial couples to position themselves as like everyone else).

93. Pratt, *supra* note 11, at 244.

94. See *id.* at 241.

95. *Id.* at 244 (quoting Interview with Mildred Loving in Milford, Va. (Oct. 12, 1994)).

sexual acts not be depicted in American pornography⁹⁶—reveals that America remains fixated with the intersection of race and sex. One of the curiosities of this list is that, while depictions of sex between a white man and a black woman are not proscribed, depictions of sex between a black man and a white woman are discouraged.⁹⁷

Similarly, the minds of those assessing same-sex relationships are preoccupied with sex. In attempting to dismantle this sexual default for gay-male relationships in particular, queer activists also seek to claim the normal.⁹⁸ In advocating for the articulation of a gay-male masculinity, Professor G. W. Dowsett states that “[t]he greatest challenge facing masculinity research and men’s studies lies in dealing with the actuality of homoeroticism and gay sex.”⁹⁹ Like black-white relationships, assumptions about sex and sexuality define the gay-male relationship to external assessors. In making this point, Joseph Bristow states that

[w]e are—to the heterosexual world—walking definitions of sex. We mean sex. Our lifestyle is defined as a sexual lifestyle that says ‘fuck.’ . . . Gay men provide a convenient target for the displacement and projection of widespread social confusion about heterosexuality on to a small ‘perverse’ group.¹⁰⁰

Analogously, despite the average nature of many of our lives, interracial couples are often reduced to the sexual. Similarly, when one reviews *Loving*, one sees that the Court never came to terms with the notion of enduring love across racial lines. The Court’s reasoning never

96. See Frontline, PBS, American Porn, <http://www.pbs.org/wgbh/pages/frontline/shows/porn/prosecuting/cambria.html> (last visited Feb. 17, 2006) (“[T]he Cambria list shows how the adult industry is seeking to be more careful, fearing a potential crackdown on pornography by the Bush administration.”).

97. See *id.* (“Do not include . . . black men-white women themes.”).

98. See, e.g., G. W. Dowsett, *I’ll Show You Mine, if You’ll Show Me Yours: Gay Men, Masculinity Research, Men’s Studies, and Sex*, 22 THEORY & SOC’Y 697 (1993).

If I can caricature the issue for a moment: it is about each man’s relationship to his vacuum cleaner. . . . It is important to note that every day, each gay man is responsible for his job or career, his social life, sporting and cultural interests, and for his family life—including children He has to maintain emotional attachments to lovers and commitments to longstanding networks of friends. Along with all of this comes the housework, the shopping, sewing, washing and ironing, and organizing the domestic relations of a household . . .

Id. at 702.

99. *Id.* at 705.

100. *Id.* at 706 (quoting Joseph Bristow, *Homophobia/Misogyny: Sexual Fears, Sexual Definitions*, in COMING ON STRONG: GAY POLITICS AND CULTURE 54, 74 (Simon Shepherd & Mich Wallis eds., 1989)) (emphasis omitted).

turned on the ability to love how and whom we choose. Admittedly, there are normative constraints with which most Americans agree—such as age restrictions, the prohibition of polygamy, and consanguinity rules—which apply regardless of race. With respect to contemporary notions of interracial intimate relationships, however, it seems we remain unable to appreciate that such relationships could not endure without the existence of strong, determined, committed love.

Instead, the explanation for why a white man would lower himself to be with a black woman centers on sex. When we traveled throughout Egypt, my husband was routinely asked questions about his “black prostitute.” In Cuba, it was assumed that I, like many of the women who had been “rented” for the week by male travelers, was also for hire. The historical and contemporary debasement of black womanhood allows for easy slippage to this “he’s in it for the sex” rationale. Curiously, given the passing of time and the longevity of many interracial relationships, this logic must become increasingly irrelevant. Yet, love never seems to be recognized as the foundation of interracial relationships. Our inability to comprehend the interracial relationship is disconcerting. It would be one thing if the external gaze were not so fixated on the relationship—however, prying eyes make assessments and demand explanations.

The chasm between black and white in American is vast. Any relationship which seemingly bridges this gulf invites inquisition, especially where the black-white binary is compromised to the point of allowing for intimacy and sex. The callous nature of these observations is symptomatic of a jarring reality for many interracial couples. Romantic intentions are interrupted by the cruel reality of a piercing, often hostile, world. To be an interracial couple is to be laid bare to the most probing of gazes, both from within and without. Indeed, as I reencountered my partner, I realized that my gaze was just as “colored” by the sociolegal history of this nation as that of any external observer.

V. THE PERSONAL IS POLITICAL

A. *Ironic Love?*

Back in my yard, I did not have the energy to explain, and part of me did not want to explore, what I felt was a racial separation in the midst of our intimate integration—I did not want to have another discussion about race across race. I was spent from the conflicting emotions in which I was awash—joy from the beauty of the article and its numerous photos and disbelief that I had never, in my thirty-seven years, seen such a thing. How ridiculous, yet telling, that I had never before witnessed a celebration of black womanhood so named. I was

angry at the fact that countless other women and men of color were denied, in so many ways, their moment of glory, or even self-actualization. Plus, I was ashamed that I was too emotionally drained to attempt to share these sentiments with my best friend. It was this interracial fatigue that catapulted me to the point of exploring my racial cognitive dissonance through the research and writing of this Article, really an exposé of my own interracial posture. As Usher sings, "This is my confession."¹⁰¹

So, in my overly intellectualized, probably selfish, stewing I decided not to say anything; I decided not to talk to my husband about how moving I felt this admittedly simple article was. Why did I do that? Because I love the individual man at the same time that I hate "da man."

B. Traversing the Boundaries

Loving the man is part of my internal struggle. I struggle with the seeming inconsistency and improbability of being married to a white man, yet being a progressive, race-conscious, black woman living in America. Interestingly, my level of angst dissipates somewhat when we navigate non-American spaces like Jamaica and Canada, which definitely have their own racial dynamics,¹⁰² but which at least purport to value the multicultural.¹⁰³

Challenging the island's motto, which valorizes Jamaica's multiracial and multicultural heritage, our experience as an interracial couple in Jamaica has been bifurcated. Specifically, Jamaican men often pat my husband on the back and treat him as a brother due to his relationship with me. At times he is admonished to "treat our sister right"; at other times it is as simple as a head nod and a sly smile. This celebration of my husband's relationship annoys me; it is as if he has joined a secret men's club based on sexual intimacy with black women—although it is better than disdain, I suppose. Of course this has happened

101. USHER, *Confessions, Pt. 2, on CONFESSIONS* (Arista Records 2004).

102. For an analysis of the differences between American- and Canadian-style racism, namely the more blatant versus subtle racism, see RACISM EH? A CRITICAL INTERDISCIPLINARY ANTHOLOGY ON RACE AND RACISM IN CANADA (Camille A. Nelson & Charmaine A. Nelson eds. 2004).

103. The official motto for Jamaica is "Out of Many One People," a celebration of the island's multicultural heritage. See Jam. Info. Serv., National Symbols, http://www.jis.gov.jm/special_sections/Independence/symbols.html (last visited Feb. 19, 2007). The *Canadian Charter of Rights and Freedoms*, part of the Canadian Constitution, includes several sections relating to diversity and multiculturalism. Section 15(1) reaffirms the concepts of equality and freedom from discrimination while section 27 states that the Charter will be "interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians."

in the United States as well, as evidenced by the comments an African American salesman made while my husband was buying household goods with our children—the salesman simply remarked, “you’ve been dippin’ in chocolate, alright go on then.” But usually, no one makes such jocular or purportedly supportive comments to my husband in the United States.

Interestingly, after reviewing a draft of this Article, my husband reminded me of an instance in Jamaica in which he was denied bar service. We were having a few drinks at a nightclub on the beach. My husband went to the bar and was there for some time. Upon my approaching the bar to find out what was going on, the black male bartender—who had previously ignored my husband for over ten minutes—instantly served us. Of course, he knew we were together—we stand out like a sore thumb in the exclusive resort typically reserved for affluent white couples.

Somewhat sympathetically, I presumed this was the bartender’s form of protesting a relationship that he assessed as having implicit colonial significance—a particularly sore point for many Jamaicans who would not accept postcolonialism in the face of ongoing political and economic struggles.¹⁰⁴ The reason for my sympathy is that, as a black woman, I think it important that my husband experience some of the disdain, rudeness, inattention, and scorn I have unfortunately become accustomed to in other North American venues. My allegiances in such situations are conflicted; I recall being tempted to leave him there to fend for himself, but I selfishly wanted my drink.

The existence of sexual contact between blacks and whites during slavery has been an enduring source of anger for blacks and of denial for whites. Despite the rhetorical repulsion of interracial sex and the legal sanctions employed to enforce sexual segregation, interracial sex (if not love) has been a controversial staple of American and Jamaican life—cross-racial sexual relations remain an open secret in many black communities.¹⁰⁵ The supposed lasciviousness of slave women¹⁰⁶ justified

104. See Deborah A. Thomas, *Emancipating the Nation (Again): Notes on Nationalism, “Modernization,” and other Dilemmas in Post-Colonial Jamaica*, 5 IDENTITIES 501 (exploring the connection between Jamaica’s colonial past, African heritage and the forging of a modern Jamaican identity); see also Donna Hope, *Origins of Black Bedroom Conflict*, JAMAICAN GLEANER, Jan. 27, 2002, <http://www.jamaica-gleaner.com/gleaner/20020127/ent/ent3.html> (remarking that race, class, and gender intersect in Jamaica in a manner that belies the colonial legacy); David Scott, *Political Rationalities of the Jamaican Modern*, 14 SMALL AXE 1 (2003) (examining the return to studies of Jamaican politics in light of contemporary economic, political, and security issues).

105. See MORAN, *supra* note 28, at 18-28; see also Frank W. Sweet, *Essays on the Color Line and the One-Drop Rule*, BACKINTYME ESSAYS, July 1, 2005, <http://www.backintyme.com/essay050701.htm> (acknowledging the colonial roots of

the legacy of sexual terrorism inflicted on black slave women in order to further their “(re)productivity.”¹⁰⁷

Further, pseudoscience, anthropology, and legal precedent sealed the fate of slave women as potential targets of white male sexual imperialism.¹⁰⁸ Men have routinely used sexual predation as weapons of

“colored”—as opposed to black—Jamaicans and the prevalence of intermarriage even in colonial times).

106. See, e.g., Joan R. Tarpley, *Blackwomen, Sexual Myth, and Jurisprudence*, 69 TEMP. L. REV. 1343, 1345-47 (1996) (discussing the stereotype of a black woman as a “jezebel”); see also Nancy Ehrenreich, *The Colonization of the Womb*, 43 DUKE L.J. 492, 510-11 (1994) (“Black theorist Patricia Hill Collins describes four harmful images of black women: the mammy (faithful, nurturing, asexual, obedient), the Jezebel (sexually promiscuous), the welfare mother (irresponsible, lazy), and the matriarch (emasculating, aggressive, disobedient to male authority).” (citing PATRICIA HILL COLLINS, *BLACK FEMINIST THOUGHT: KNOWLEDGE, CONSCIOUSNESS, AND THE POLITICS OF EMPOWERMENT* 71-78 (1991))); Lori A. Tribbett-Williams, *Saying Nothing, Talking Loud: Lil’ Kim and Foxy Brown, Caricatures of African-American Womanhood*, 10 S. CAL. REV. L. & WOMEN’S STUD. 167, 174 & n.45 (discussing the notion of a fractured societal view of White women and slave women due to the restraints of the “Lady/Jezebel classifications” (citing PATRICIA MORTON, *DISFIGURED IMAGES: THE HISTORICAL ASSAULT ON AFRO-AMERICAN WOMEN* 9 (1991))).

107. This Article uses the term “(re)productivity” to highlight sociopolitical and sociolegal interferences with women’s reproduction. Typically understood, reproduction relates to the biological capacity for childbearing. “(Re)productivity,” however, focuses on the element of production involved in reproduction—the contextual incentives and processes of producing, in this case, offspring. See Camille A. Nelson, *American Husbandry: Legal Norms Impacting the Production of (Re)productivity*, 19 YALE J. L. & FEMINISM (forthcoming 2007).

108. Medicine has used the supposed engorged genitals and protruding buttocks of blacks as a signifier of hypersexuality. See Zine Magubane, *Which Bodies Matter? Feminism, Poststructuralism, Race, and the Curious Theoretical Odyssey of the “Hottentot Venus,”* 15 GENDER & SOC’Y 816, 816-17 (2001).

Baartmann, a Khoikoi woman, was taken from the Cape Colony in South Africa and exhibited at the Piccadilly Circus in London because of the purported abnormality of her sexual organs. She was said to suffer from both steatopygia (an enlargement of the buttocks) and an elongation of the labia (thus named the “Hottentot Apron”). Baartmann suffered the indignity of public exhibition and became the subject of popular lore and political lampooning before her premature death and subsequent dissection at the hands of Georges Cuvier, a French anatomist.

Id. at 817; Jennifer C. Nash, *From Lavender to Purple: Privacy, Black Women, and Feminist Legal Theory*, 11 CARDOZO WOMEN’S L.J. 303, 320-23 (2005).

The law also, for example, refused to recognize that female slaves could be raped. See WILLIAM GOODELL, *THE AMERICAN SLAVE CODE IN THEORY AND PRACTICE: ITS DISTINCTIVE FEATURES SHOWN BY ITS STATUTES, JUDICIAL DECISIONS, AND ILLUSTRATIVE FACTS* 86 (1968) (“Rape committed on a female slave is an offense not recognized by law.’ Such facts, in their almost interminable varieties, corroborate the preceding, and illustrate the almost innumerable uses of slave property!” (quoting MSS by Judge Jay)). Additionally, society’s view of welfare recipients has led to further racial misconceptions: “The fact that 90 percent of women on welfare have only two children,

terrorism.¹⁰⁹ The legacy of black women's exposure to white male racialized sexual aggression undoubtedly fuels much of the negativity that black women in interracial relationships experience.¹¹⁰ This response is particularly acute from black men, who have historically been marginalized and persecuted by white men for their attempts to intervene on behalf of black women victimized by such sexual predation.¹¹¹ In the American racial hierarchy, black men routinely felt emasculated.¹¹² In

and that most welfare recipients are white, means nothing to those who indulge in their masturbatory mulling about black welfare queens who purportedly reproduce like rabbits." WILLIAMS, *supra* note 76, at 170.

109. See, e.g., SUSAN BROWNMILLER, *AGAINST OUR WILL: MEN, WOMEN AND RAPE* (1975) (arguing that rape is a frequent crime of violence against women); Catherine A. MacKinnon, *Crimes of War, Crimes of Peace*, in *ON HUMAN RIGHTS: THE OXFORD AMNESTY LECTURES* 1993, at 83-109 (S. Shute & S. Hurley eds., 1993); Indai Lourdes Sajor, *Challenging International Law: The Question for Justice of the Former "Comfort Women,"* in *GOLBAL ISSUES, WOMEN AND JUSTICE* 288 (Sharon Pickering & Caroline Lambert eds., 2004) (stating that over 200,000 women were forced into sexual slavery and raped by the Japanese during World War II); see also Karen Parker & Jennifer F. Chew, *Compensation for Japan's World War II War-Rape Victims*, 17 *HASTINGS INT'L & COMP. L. REV.* 497 (1994); Paul M. Schimpf, *Talk the Talk; Now Walk the Walk: Giving an Absolute Privilege to Communications Between a Victim and Victim-Advocate in the Military*, 185 *MIL. L. REV.* 149, 154 n.26 (2006) ("A 2003 study interviewed 558 women who were veterans of the Vietnam and Persian Gulf eras and found that 28% had experienced a rape or attempted rape during their military service." (citing U.S. DEP'T OF DEFENSE, *TASK FORCE REPORT ON CARE FOR VICTIMS OF SEXUAL ASSAULT* 32 (2004))); Alexandra Stiglmyer, *The Rapes in Bosnia-Herzegovina*, in *MASS RAPE: THE WAR AGAINST WOMEN IN BOSNIA-HERZEGOVINA* 82 (Alexandra Stiglmyer ed., 1994); Rhonda Copelon, *Gendered War Crimes: Reconceptualizing Rape in Time of War*, in *WOMEN'S RIGHTS, HUMAN RIGHTS: INTERNATIONAL FEMINIST PERSPECTIVES* 197 (Julie Peters & Andrea Wolper eds., 1995); David S. Mitchell, *The Prohibition of Rape in International Humanitarian Law as a Norm of Jus Cogens: Clarifying the Doctrine*, 15 *DUKE J. COMP. & INT'L L.* 219, 222-23 (2005) (mentioning the massive abuses in Rwanda, the former Yugoslavia, and Sierra Leone).

110. See KENNEDY, *supra* note 31, at 41 ("[During slavery, there] was probably more black-white sex than at any other time (thus far) in American history. Most of it was unwanted sex, stemming from white males' exploitation of black women . . ."); RENEE C. ROMANO, *RACE MIXING: BLACK-WHITE MARRIAGE IN POSTWAR AMERICA* 217-22 (2003) (exploring negative and hostile reactions of African Americans to black-white interracial relationships).

111. KENNEDY, *supra* note 31, at 162-64; see also Kyle D. Killian, *Crossing Borders: Race, Gender, and Their Intersections in Interracial Couples*, 13 *J. FEMINIST FAM. THERAPY* 1 (2001); Hope, *supra* note 104 (acknowledging the lack of power black men have historically had over black women and exploring the ways that this affects contemporary popular culture).

112. See, e.g., KENNEDY, *supra* note 31, at 168 n.* ("[B]lack men . . . even late in the twentieth century, continued to feel stung by the inability of their forebears to protect their womenfolk from the unwanted sexual attention of white men.").

our “post-civil rights anxiety,”¹¹³ this matter resonates as we seek to exclude the “Bad Black Man,” often through impoverishment or incarceration, while applauding the assimilated “Good Black Man,” but only if he is no longer seen as sexually transgressive.¹¹⁴ Knowing this, how could my husband and I get angry at the bartender? We took the position that we would not. It is a racial irritation that we have come to accept as part of our social reality—indeed, we anticipate such vitriol and cannot deny its sociohistorical foundations or legitimacy.

Illuminating the salience of race and sex, my experience in Jamaica is to be contrasted with that of my husband. Some people do not reference our relationship at, all while some men treat us as if he was not there beside me. I know these men would be more respectful of my relationship if my partner was also black.¹¹⁵ This relationship invisibility is annoying, but it is better, I suppose, than the utter contempt we have experienced in other locations. In understanding the sociopolitical underpinnings of situations like these, unless the comments become insults or glares become touching, we consciously don the posture of quiet resolve, letting the gazer know we are aware of their unwanted attention while also attempting to maintain our dignity and relationship integrity in an uncomfortable situation.

In the United States and Canada, comments directed at me by black men about my relationship are never good—they typically start with “sell-out” and end with my supposed abandonment of black men.¹¹⁶ Black women, on the other hand, generally have had very little to say or have been supportive. Much of this support is, I believe, based on the

113. See Cooper, *supra* note 3, at 857-58 (describing the purported desire to be racially even-handed while simultaneous making decisions which disparately impact racialized people).

114. See PAUL M. BARRETT, *THE GOOD BLACK: A TRUE STORY OF RACE IN AMERICA* (1999) (discussing how, despite attempting to be the “good black”—non-threatening, Harvard educated, and assimilated—Lawrence D. Mungin brought a successful racial discrimination suit against his law firm); see also MORAN, *supra* note 28, at 104 (“Both black men and women have been stereotyped as hypersexual and promiscuous.”); KENNEDY, *supra* note 31, at 14-18 (detailing some of the stereotypes of black male sexuality, including larger penises, greater sexual energy, and heightened sexual eagerness and desire); Christian Halliburton, *Neither Separate Nor Equal: How Race-Sensitive Enforcement of Criminal Laws Threatens to Undo Brown v. Board of Education*, 3 SEATTLE J. FOR SOC. JUST. 45, 57-59 (exploring the myth of the sexually transgressive and ravenous black man through analyzing a particular rape case).

115. I know this because of the heightened respect I experience when I am out with a black male friend. It is usually assumed that we are a couple. Indeed, even if I do not know the black male sitting beside me, for instance on an airplane, I am often treated as though we are together—for example, I am given the stranger’s snacks if he is sleeping and asked whether he wants a beverage.

116. See ROOT, *supra* note 51, at 170.

well-documented “shortage of black men.”¹¹⁷ Black women who are vocally supportive of my relationship purport to “feel my pain” at having to even consider being in a relationship with someone outside my race.¹¹⁸ While superficially positive, these assumptions are also somewhat troubling—they presume an absence of choice and logic in the selection of an intimate partner. Perhaps, though, in a moment of extreme honesty I do find notions of constrained choice compelling, especially given the racial dynamics involved in coming of age in suburban Canada.¹¹⁹

C. *Lovin' as Personal and Professional Paradox*

The sociolegal history of America exacerbates the racialized assessments of our relationship.¹²⁰ Our relationship was improbable given that “[b]lacks and whites continue to be the two groups with the

117. Reporting the results of her work with focus groups of black women, Professor Erica Chito Childs said that

[t]he college woman raised legitimate concerns about their future and questioned whether there will be a Black man to raise a family with because of the shortage of Black men, which is attributed, at least partly, to large numbers of Black men's choosing white women. Furthermore, the women reference the unlikelihood of white men as partners based on white racism, Eurocentric standards of beauty, and lack of opportunity or desire to interact.

Erica Chito Childs, *Looking Behind the Stereotypes of the “Angry Black Woman”: An Exploration of Black Women's Responses to Interracial Relationships*, 19 GENDER & SOC'Y 544, 554-55 (2005); see also KENNEDY, *supra* note 31, at 120.

118. See Childs, *supra* note 117, at 551-52 (finding that college students were more accepting of black women being in relationships with white men than of black men being in relationships with white women). Some revealing comments from Childs's study include the following: “A Black woman with a white man can go further, and there's not the same idea that she's going to desert the African American community,” “You see so many Black guys running around with white girls that it's almost like, See this is what you get,” “When I see a Black girl with a white guy, I think it must be love; he must be doing something right for her to cross over like that, or maybe he has money.” *Id.*; see also KENNEDY, *supra* note 31, at 120.

119. Growing up in Canada, interracial relationships, at least black man–white woman, seemed the order of the day. Indeed, when I grew up in the suburbs of Whitby (which the few black kids referred to as White-by), Ontario, a middle-class bedroom community thirty minutes by highway from Toronto, my prospects for dating a black person were slim given the relative absence of black families in the suburbs and the corresponding relative absence of blacks in the schools. Times have, however, changed. As housing prices in Toronto skyrocketed, many families of color relocated to the more affordable suburbs. See Mier Siemiatycki et al., *Integrating Community Diversity in Toronto: On Whose Terms?*, CERIS Working Paper No. 14, <http://ceris.metropolis.net/Virtual%20Library/community/siemiatycki2.html>.

120. See KENNEDY, *supra* note 31, at 14 (“Race has—and has long had—a massive presence in the sexual imaginations of Americans These ideas seeped into the consciousness of Americans of all races and . . . contributed to a racial folklore that is still in existence, still growing, and still remarkable in its reach.”).

greatest social distance, the most spatial separation, and the strongest taboos against interracial marriage.”¹²¹ I find myself justifying and explaining our relationship to many an observer—the mental gymnastics involved in being simultaneously proactive and reactive are challenging. I suppose we all have such internal struggles—a crisis of consciousness in which we take ourselves to task for our own hypocrisy. At least I hope we all have these moments—they keep us honest on some basic level. Our critical consciousness asserts itself and allows us to know what is coming before it comes; when one feels under siege, one anticipates an offender’s moves and devises strategies for rebuttal, confrontation, and survival. For me, at least, continuous reflection mitigates self-righteousness and causes me to think more critically about the nuances and ironies inherent in my line of work and my personal life as a wife, mother, wannabe volleyball star, and aspiring chef.

Professionally, there is inherent duality in loving the man: on one hand it is an occupational hazard, on the other, it is a protective buffer, but at all times it remains an externally manipulated and evaluated relationship by which others attempt to read me and my partner. The protection flows from my longstanding intimate relationship with a white man, which vitiates the construction of me as an “angry black woman.”¹²² Clearly, I could not hate white people if I personally love one; I must not really be that radical since I have an intimate relationship with “da man.” Not being seen as an angry black woman cuts two ways, however—it undermines my “street cred”¹²³ with black folks so I have to either (1) earn their racial confidence first and then drop the “I have a white husband” bomb; or (2) tell them up front just to get the uncomfortable conversation out of the way, hoping all the while to be

121. Childs, *supra* note 117, at 544 (quoting ROCKQUEMORE & BRUNSMA, *supra* note 42, at ix).

122. See Charmaine C. Williams, *The Angry Black Woman Scholar*, 13 NWSA J. 87 (2001) (sharing several anecdotes which provoked the author to narrate her displeasure and construction as an angry black woman); see also Vanessa E. Jones, *The Angry Black Woman*, BOSTON GLOBE, Apr. 20, 2004, at F1 (“Tart-tongued or driven and no-nonsense, [the Angry Black Woman] is a stereotype that amuses some and offends others.”).

123. I am reminded of a conversation I had with one of my students when I visited my alma mater in Ottawa, Canada. As a former clerk, I was encouraging her to apply for clerkships with the Supreme Court of Canada. She pondered the opportunity, yet wondered aloud whether I had assessed how such an opportunity might have affected my street credibility—by taking advantage of such a wonderful privilege, had I disconnected myself from “my peeps,” thereby becoming permanently removed from my community. Cf. KENNEDY, *supra* note 31, at 34 (commenting that in countering white racial pride, some blacks have asserted black power and are antagonistic to interracial intimacies, especially with white partners). Kennedy has noted that blacks who marry outside of the black race are sometimes considered to be “racial defectors.” See Kennedy, *supra* note at 28, at 820.

given a second chance to establish my racial credentials. My tactics depend on my mood and intuition, a racialized calculus with which anyone involved in interracial relationships must be familiar, but which is an interracial tax that racially homogenous couples do not pay.

Essentially, the occupational hazard comes from the personal and professional strategizing around social situations necessary to counter assessments of me based on who I love. As a progressive, black, female, legal academic, the irony that I talk black yet sleep white frequently challenges me—I am told I sleep with the enemy.¹²⁴ In a nutshell, there is little solace to be found in either black or white communities. To some extent, those of us in interracial relationships are society's racial misfits. Black-white loving is loving outside the box. It defies longstanding norms of assumed racial congruity in matters of the heart as it runs counter to so much of what blacks have been taught and is consistent with what most whites have loathed and feared.

D. Black Privilege in White Face: An Oxymoron

These assessments also pertain to my partner, who is often given a "black pass"—he is accorded temporary black privileges, as oxymoronic as that seems, due to his interracial relationship. Unlike mine, his "street cred" is not just intact, but is actually enhanced. He must not be one of those white men who oozes patriarchal white heterosexual privilege; he must not be "da man" if his intimate partner is black. While I concede that my partner is a progressive white man, his race, gender, and heterosexuality nevertheless privilege him in many ways too complicated to fully unpack. Indeed, it would be impossible for him to exist any other way in this world, at least in the context within which we operate. The overlapping privilege that his majority identity generates is so deeply ingrained in the fabric of our lives that to exist otherwise would require wholesale deconstruction of complex systems—in short, dismantling heterosexual white privilege would require a revolution.

Interestingly, in keeping with the hypersexualization of interracial relationships, my partner's black pass also attaches to his sexual construction. He is accorded sexual deference and constructed as sexually black by those who assume I would not be in a relationship with a white man who could not fulfill me as a black man could.¹²⁵ That

124. See ROMANO, *supra* note 110, at 216-41; KENNEDY, *supra* note 31, at 110-15 (providing an overview of African American antagonism towards black-white interracial relationships as evidence of a lack of racial solidarity).

125. See KENNEDY, *supra* note 31, at 14-18 (discussing the sexual stereotypes surrounding black manhood). See generally SANDER L. GILMAN, *DIFFERENCE AND PATHOLOGY: STEREOTYPES OF SEXUALITY, RACE, AND MADNESS* 109-28 (1985)

people feel comfortable commenting on such things reveals the normative construction of black-white interracial relationships as intrinsically sexual. These moments of puncture provide insight into assumed societal access to interracial relationships. It is unlikely that partners in white couples have to deal with inquiries into the sufficiency of their respective sexual gratification. In essence, society seeks to peer inside the interracial relationship—it is this piercing gaze which disturbs our sanctuary. Again, the relationship cannot be about love; there must be sexual motivations propelling it.¹²⁶

Of course, the existence of an actual relationship represents a departure from the manner in which white man-black woman sexual liaisons have historically operated. The white man was certainly not constructed as sexually black, for to do so would have been to denigrate him with animalistic sexuality. In the past, the lack of a relationship, or at least its assumed absence, ensured that the white man's sexual construction remained intact. The shift in construction of white male sexuality—from that of an interracial interloper to one imbued with stereotypical black male prowess—is due to the increased autonomy of black women in contemporary America. Now that black women can exercise some sexual agency, we have some options in the selection of the best suitor. Assumptions of sexual prowess are also an easy way to continue historical immasculation. The black man is damned if he is constructed as hypermasculinized, and he is damned if he is emasculated, his relational entitlements being transferred to white men in either case.

E. Lovin' in Black and White: Colorblindness as Loving Reality and the Mongrelization of a Nation

Despite these racialized ascriptions, I cling to the only real colorblindness that I would likely ever concede. Specifically, in our intimate lives, we are just who we are, with no excessive comparing and contrasting along racial lines. When we exit our sanctuary and proceed into the external world, we face exaggerated assessments of our racialization and that of our children. Such incongruence is likely one of the defining characteristics of interracial relationships—a peaceful solace in the absence of racial constructs; disruption by the realities of multiple

(examining black sexuality in modern consciousness); JAN NEDERVEEN PIETERSE, *WHITE ON BLACK: IMAGES OF AFRICA AND BLACKS IN WESTERN POPULAR CULTURE* (1992) (examining stereotypical images of blacks as entertainers, servants, athletes, and in the sexual arena).

126. Perhaps debunking my thesis of critical consciousness, my partner insists that this is one stereotype which he is not invested in discrediting. Revealing his great sense of humor, he is happy to let these particular stereotypes run their course.

layers of hypervigilance; and hyperscrutiny, compounded by the racial baggage we all carry. This is the level at which the personal becomes political—interracial relationships and mixed-race families cannot escape societal assessments and impositions of external value judgments. Race, despite being a construct, is real and tangible.

In this milieu, it seems that interracial children play several societal roles in the unfolding American racial drama. First, they are feared or loathed. Their multiple racial identities confound those who abhor race-mixing.¹²⁷ For instance, returning to the United States from Ottawa, the jeers of two grown men who insisted on shouting “zebra” at our son in the airport angered me and my husband. Being just shy of two then, our son laughed, smiled, and proceeded to babble about liking zebras, and elephants too. His naiveté is truly a reminder of the constructedness of race—the simple beauty of his response exposed the absurdity of their comments.

Nonetheless, the comments of these strangers form a continuing line of racialized thought well-documented in jurisprudence. My personal favorites are the comparison between mixed-race people and mules and the amorphous nature of identifying race. In *State v. Jackson*, the court said

[i]t is stated as a well authenticated fact that if the issue of a black man and a white woman, and a white man and a black woman, intermarry, they cannot possibly have any progeny, and such a fact sufficiently justifies those laws which forbid the intermarriage of blacks and whites, laying out of view other sufficient grounds for such enactments.¹²⁸

While the above passage highlights a historic pseudoscientific basis for prohibition of interracial relationships, Professor Rachel Moran recounts a story that reveals how entirely subjective assessments of race can impact one's identity and freedom.¹²⁹ Moran points out the speculative nature of charges in the 1949 criminal prosecution of a man dreamed to be black:

[I]n Roanoke, Virginia, officials tried a man for miscegenation because his mother-in-law dreamed that he was black. The Baptist minister who married the couple reported that the

127. See Killian, *supra* note 111, at 23 (speculating that some of the negativity surrounding mixed race children stems from “thinly veiled manifestations of people's discomfort around interracial relationships and relations”).

128. 80 Mo. 175, 179 (1883).

129. See Moran, *supra* note 28, at 88.

groom “seemed to be a white man He seemed to be very genteel and nice and I invited them to join my Bible class if they settled in Roanoke.” When the marriage soured, though, the bride’s parents found that their son-in-law was not only growing increasingly vulgar and coarse but also was “getting darker and darker.” A few weeks later, the mother-in-law had her dream, and the man was arrested.¹³⁰

More often than not, however, courts fell back on the assumed logic of a natural racialized order of existence. It was simply unnatural, in the minds of many an esteemed jurist, for the races to intimately mingle—to do so would produce devastating results. For instance, in *Scott v. Georgia*, the court stated as follows:

The amalgamation of the races is not only unnatural, but is always productive of deplorable results. . . . [T]he offspring of these unnatural connections are generally sickly and effeminate, and . . . they are inferior in physical development and strength, to the full-blood of either race. . . . They are productive of evil, and evil only, without any corresponding good.¹³¹

The stability of such disdain for mixed-race people is revealed in the consistency of the judicial commentary and legislative unease. Note the similarity of the language used in *Eggers v. Olson*—an action to quiet title revolving around whether a black man was legally married to “a restricted Choctaw Indian”¹³²—in commenting on mixed-race children:

The purity of the public morals, the moral and physical development of both races, and the highest advancement of civilization, . . . all require that they should be kept distinctly separate, and that connections and alliances so unnatural should be prohibited by positive law and subject to no evasion.¹³³

Indeed, even after the Supreme Court decision in *Loving*, obstacles remained for those seeking to marry interracially. Kennedy notes that compared to the widescale opposition to *Brown v. Board of Education*,¹³⁴

130. *Id.*

131. 39 Ga. 321, 323 (1869).

132. *See* 231 P. 483, 483 (Okla. 1924).

133. *Id.* at 484 (quoting 18 RULING CASE LAW *Marriage* § 31 (1917)).

134. 347 U.S. 483

such opposition was “Lilliputian.”¹³⁵ Undoubtedly, however, interracial couples faced with such ongoing sentiments in open defiance of the Supreme Court decision would have taken no solace in the relative rarity of their occurrence, or more likely their relative absence from the national radar given the private nature of such humiliation. The refusal of Delaware and Florida officials to issue a marriage license to a mixed couple in 1967 and 1968, the need for Federal court involvement in the 1970s to reverse the enjoining of the issuance of marriage licenses to interracial couples in Mississippi, and the need for the United States Justice department to sue for the granting of a marriage licence to a white soldier and his black fiancée in Alabama in 1970 all reveal the continuing cultural legacy of antimiscegenation laws.¹³⁶ Kennedy also points out the durability of these laws:

Virginia repealed its antimiscegenation law in 1968, and West Virginia, Texas, Florida, Oklahoma, and Missouri struck theirs from the books in 1969, as did North Carolina in 1970, Georgia, Louisiana, and Mississippi in 1972, Delaware and Kentucky in 1974, and Tennessee in 1978. South Carolina voters revoked the antimiscegenation provision in that state's constitution in 1998, and in November 2000 Alabama at last removed from its constitution the clause banning the legislature from authorizing interracial marriage. Even at that late date, the outcome was soberingly close, with 40 percent of Alabama's electorate voting to *retain* the prohibition.¹³⁷

A review of the first motion picture widely released in the United States—D. W. Griffith's *Birth of a Nation*—reveals the national hysteria over the dangers posed by the dreadful “mulatto.”¹³⁸ This, the first true American blockbuster film,¹³⁹ explored two quintessential American

135. KENNEDY, *supra* note 31, at 278.

136. *Id.* at 278-79.

137. *Id.* at 279-80.

138. THE BIRTH OF A NATION (1915).

Film scholars agree, however, that it is the single most important and key film of all time in American movie history—it contains many new cinematic innovations and refinements, technical effects and artistic advancements, including a color sequence at the end. It had a formative influence on future films and has had a recognized impact on film history and the development of film as art. In addition, at almost three hours in length, it was the longest film to date. However, it still provokes conflicting views about its message.

Tim Dirks, *The Birth of a Nation* (1915), FILMSITE.ORG, <http://www.filmsite.org/birt.html> (last visited Feb. 18, 2007).

139. *Id.*

issues, "inter-racial sex and marriage and the empowerment of blacks."¹⁴⁰

The second role in which mixed-race children are frequently cast is as the bridge between racially challenged generations. Specifically, it is often the children of interracial couples who allow them to reconnect with their disapproving parents. In this way, the mixed-race children perform a mediation function, disarming the grandparents through the open-hearted sentiments that only children can generate.¹⁴¹ Third, to members of the sunshine brigade, mixed-race children represent the cure for our racial pathologies. These individuals see mixed-race children as the way of the future; they defy race and will lead us to racial harmony through their splendid existence.¹⁴²

I think that this third sentiment is part of what motivates those who essentially prefer mixed-race children—who see them as the "beautiful ones" who merit unearned compliments.¹⁴³ This can also be disruptive because all children are beautiful, and to excessively compliment mixed-race children is a recipe for disaster. It further separates them from their communities and creates another privileged group, likely at the expense of their darker-skinned brothers and sisters. Further, mixed-race children are just that—children. To have them growing up thinking they are better, or more attractive, than anyone else furthers social stratification and will only lead them to racial isolation and confusion.

As the parent of three mixed-race children, I dislike having to be their racial reality check. It is a complicated dance to bolster their esteem and ensure self-confidence, especially in a world inclined to undermine the multiple intelligences¹⁴⁴ of children of color, while simultaneously reminding them that—contrary to what people are telling them—their hair, skin tone, and eye color are not superior to anyone else's. That it is often black people telling my children that they are "lucky they have good hair" and "nice coloring" makes matters worse—the self love of blacks in America has been consistently undermined to the point that

140. *Id.*

141. MORAN, *supra* note 28, at 178.

142. See generally Bryan J. Grapes, *Introduction to INTERRACIAL RELATIONSHIPS* 8 (Bryan J. Grapes ed., 2000).

143. See, e.g., Ziv, *supra* note 28, at 5 ("Perhaps the more 'different' you and your mate are the healthier and more attractive your children will be. . . . Mating outside our ethnic group or race can result in genetically healthier children. Children who are less likely to be sickly and more likely to be sexy.").

144. The theory of multiple intelligence explores the manner in which people learn differently according to their personal skill sets. This theory posits that intelligence cannot be measured by any single number as it includes various visual, kinesthetic, musical, interpersonal, and intrapersonal forms of intelligence. See generally HOWARD GARDNER, *FRAMES OF MIND: THE THEORY OF MULTIPLE INTELLIGENCES* (1993).

many of us cannot recognize our own physical, let alone mental and spiritual, magnificence. When whites comment that my children are beautiful, it also is not abstract attraction, but a relative assessment which implicitly juxtaposes them against my seemingly pure blackness. This racial triangulation—black-white-mixed—becomes acute when their red hair is celebrated as unusual, special, and European. Despite the claims of adoration, these comments are still naked racial fetishization. Such assessments are not benign, as they fixate on indicia of race, particularly blackness; the closer the children are to their whiteness the more they are celebrated, while the content of their character is rarely assessed.¹⁴⁵

Like my husband and I, each of my three children has had to devise strategies for dealing with the external gaze. Their innocence has been lost and they too have had to become consciously critical: one is belligerent, frequently just ignoring the spectator-commentator; another is comical, performing for the crowd; and the other is most appreciative of the attention. It is my greatest hope that they all successfully navigate their mixed-race identities to become holistically healthy, self-actualized, fulfilled adults. Ultimately, I know that their racial reality is not mine, nor my husband's, but we realize that we must share what we have learned with them in order to help them navigate this racial maze to the best of all of our abilities.

VI. TURNING THE GAZE INWARD: DECONSTRUCTION

Tears not yet dry, eyes still red, I demurred from discussing my feelings about the *Oprah* article with my husband. I confess that part of the reason for my reluctance was that, in that moment, I could not be bothered to have another race discussion because that is so much of what I do for a living. Dealing with denial—especially one's own—is exhausting. I did not wish to provide any necessary education. Any conversations which I was willing to have, at that simultaneously exhilarating and exhausting moment, would have to be with same-race cohorts. Conscious criticality in that moment required that I figure out my race-based feelings; ironically, for my partner, it meant the same thing.

The fact that many of our American friends are far more appreciative of our relationship once they realize we are Canadian reveals the baggage Americans attach to race. Our foreign culture and nationality vitiates the force of the political statement of our interracial

145. Martin Luther King, Jr., I Have a Dream, Address at March on Washington, Aug. 28, 1963 (transcript available at <http://www.mlkonline.net/dream.html>) ("I have a dream that my four children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character.").

relationship in America. Similarly, our ability to bridge the racial chasm is limited, to some extent, by these same identity variables; Canada, while no racial utopia, is generally far more racially integrated.¹⁴⁶ While I think that our shared culture and the duration of our relationship mediates much of the racial complication that is part of the intricate fabric of American culture, it does not negate the salience of race in our lives.

In examining my feelings on that particular Saturday afternoon, therefore, I must acknowledge that I willingly sought out my sister, mother, and best friend in St. Louis—three black women. Perhaps that is just a testament to the power of sisterhood, but perhaps it is more. I am left to ponder my husband's insightful question of whether I believe I would have shared my feelings immediately if my partner were black. The question exposes the problematic potential for interracial fatigue to morph into interracial burnout. Any relationship can be challenging—love is not necessarily easy—but as intersectionality theories have established, if you add race, gender, sexual orientation, and class divergence, you will have added complexity.¹⁴⁷ I did not want to deal in

146. The United Nations recognized Toronto as “the world’s most multicultural city.” City of Toronto, <http://www.ontariotravel.net/TcisCtrl?site=consumers&key1=destinations&key2=GTA&key3=Toronto&language=EN> (last visited Oct. 2, 2007); see also Cindy Hatcher, *Get a Taste of Toronto*, CNN.COM, Nov. 13, 2006, <http://www.cnn.com/2006/TRAVEL/DESTINATIONS/10/12/toronto.cuisine/index.html> (“Toronto has attracted so many cultures to its shores that the United Nations deemed it the world’s most multicultural city.”). The city’s official motto is “Diversity Our Strength.” See City of Toronto, City of Toronto Motto, <http://www.toronto.ca/protocol/motto.htm> (last visited Oct. 2, 2007). Further, “[o]f the 14.1 million persons in couples [in Canada] in 2001, 452,000 people were in mixed unions.” Anne Milan & Brian Hamm, *Mixed Unions*, CANADIAN SOC. TRENDS, Summer 2004, at 2, 2. “In the United States in 2000, 2.0% of all couples (married and common-law) were mixed, lower than the proportions in Canada in 2001 (3.1%).” *Id.* at 6.

147. See Peter Kwan, *Complicity and Complexity: Cosynthesis and Praxis*, 49 DEPAUL L. REV. 673, 688 (2000).

Cosynthesis insists that identity categories are sometimes themselves constructed or synthesized out of and relies upon other categorical notions. Therefore, this mutually defining, synergistic, and complicit relationship between identity categories is a dynamic model of multiple subordinating gestures. It denies the priority of the deconstructive concerns of class over race, of race over gender, or of gender over sexual orientation, of anything over anything else.

Id.; see also Peter Kwan, *Jeffrey Dahmer and the Cosynthesis of Categories*, 48 HASTINGS L.J. 1257 (1997) (arguing for the simultaneous implication of race, gender, and homosexuality as opposed to rigid automatic constructs of such categories); Darren Leonard Hutchinson, *Identity Crisis: “Intersectionality,” “Multidimensionality,” and the Development of an Adequate Theory of Subordination*, 6 MICH. J. RACE & L. 285 (2001); Darren Leonard Hutchinson, *Ignoring the Sexualization of Race: Heteronormativity*,

racial ambiguities at that moment—I was lazy and sought out those whose experiential race credentials were beyond question. I sought dialogue and exchange without translation, explanation, questioning, or wonder.

I was intimidated by where our interracial conversation might take us. Knowing that we would shortly have a house full of my husband's white friends added to my reluctance to start a conversation that I knew we lacked the time to fully explore. I would have to joyfully face a house full of my husband's hurling¹⁴⁸ friends. Our family knows them, they are kind and generous and I sincerely like them. Reversing the tried-and-true trope by which questionable racial politics are often defended, I might add that "some of my best friends are white."¹⁴⁹ Discussing these matters in their presence would have been yet another instance of interracial contestation of which I wanted no part on that particularly hot Saturday afternoon. I did not want our hurling friends to weigh in and expose their own white male privilege, nor did I want to leave such a conversation hanging between me and my partner. In an arguably twisted way, I was protecting our friendship with these men; there are some conversations better left unexplored, at least for a time, for fear of what will be revealed—in this case a raced and gendered chasm which I fear might be precarious to traverse.

In that moment of jocular weekend masculine camaraderie, I was fixated on the thought that these men do not have to think about what frequently burdens me, namely race and gender—the intersecting identity variables highlighted in the *Oprah* article. It must be nice to be unburdened by such unsolvable questions, to walk through the world never second- or third-guessing yourself or your interactions on the basis of race or gender. I was jealous and their buoyancy, obliviousness, and ignorance annoyed me. Ignorance is bliss. To be ignorant of race and its consequences must truly be wonderful. No wonder many among us so disdain the very mention of the term—it bogs us down. Race shadows us like a hungry dog, gnawing at us when all we want is to be left alone. It continually wants to be fed—it is never satiated.

Critical Race Theory and Anti-Racist Politics, 47 BUFF. L. REV. 1 (1999); Kimberlé Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241, 1246 (1991).

148. Hurling is the national sport of Ireland. *St. Louisans Make like the Irish and Start Hurling*, ST. LOUIS POST-DISPATCH, Aug. 22, 2005, at C1 (noting that the game predates soccer, rugby, field hockey, lacrosse and baseball and explaining the goal of the game as to score by hitting the sliothar with your hurley through the top or bottom of the goal post).

149. Cf. Black People Love Us!, <http://www.blackpeopleloveus.com/> (last visited Feb. 18, 2006) ("Johnny always says: 'I'm not racist; one of my best friends is Black!' I think he might mean me!").

VII. CONCLUSION

This Article has been my cathartic exploration of the hazards of “lovin’ da man.” It is a lifestyle that is in conflict with what I do and believe. I have, admittedly, grown to this point. I used to have a lot more racial patience. Growing up in Canada, not having such patience was not an option if you wanted friends. There was no room in the suburbs of Toronto for the blasphemy of race politics. Expectations of racial acceptance and true understanding gave way to racial “tolerance” and other descriptors of diversity which fall short of true empathy and profound appreciation. Many prefer, instead, to voyeuristically celebrate the multicultural in song, music, food, and dance—forever the cultural and racial tourist, on the sidelines, preferring the gaze over the much harder foray into racial involvement. But those were the seventies and eighties—the optimist in me hopes that the racial dynamics have improved.

Our critical consciousness has meant that my partner and I have strayed from the racial and cultural sidelines. On any given day, we traverse numerous racialized spaces. We are adept at exploring such exclusive and illusive terrain together. In one night we travel from the Black Law Students’ casino night, a space racialized as predominantly black, to a hurling party at an Irish pub, a space racialized as predominantly white. While both spaces were largely homogenous, we were there together—he did not squarely fit in one and I did not squarely fit in the other. I have a not-so-secret theory that this is an essential part of the make-up of those of us in such relationships. We are the square pegs trying to fit into the round hole; we are from the island of the misfit toys, the perpetual square wheels.¹⁵⁰ Otherwise, we are the cross-over successes, able to nimbly navigate segregated spaces with apparent ease. We make it look easy when often it is not.

Undoubtedly, such navigation resonates for numerous couples—fitting is not easy or necessarily attainable. Most same-race heterosexual couples, however, do not stand out so starkly from their terrain—they match, and therefore their union is sensible, comprehensible, and expected, even if they are unwelcome for other reasons. This dichotomized racialization is a function of American demographics, revealing persistent segregation in our daily lives.¹⁵¹ The reality is that

150. See *RUDOLF THE RED-NOSED REINDEER AND THE ISLAND OF THE MISFIT TOYS* (Good Times Video 2001).

151. The Metropolitan Racial and Ethnic Change, which computes racial segregation or disparity using the 2000 Census, has found that, in the metropolitan St. Louis area, whites and blacks score an 82.8 out of 100 on the dissimilarity index. METRO. RACIAL & ETHNIC CHANGE—CENSUS 2000, ST. LOUIS, MO-IL MSA,

part of our critical consciousness demands that we accept the racialization of our lives. It is our norm. My partner and I regularly discuss our sentiments about this racialized journey. Part of my journey was this racial travelogue. My partner was my first reviewer, offering many insightful suggestions. Nonplussed about its contents, his remarks conveyed his appreciation of my need to explore my feelings—this is an essential part of his critical consciousness and I love him for it. Indeed, I suppose this is also a part of his journey. At the end of the day, isn't what we seek in our relationships growth, sharing, healing, and loving? Having explored my sentiments, exhausted, I can now retire to my sanctuary with my husband.

<http://mumford1.dyndns.org/cen2000/WholePop/WPSegdata/7040msa.htm> (last visited Aug. 14, 2007). A high value indicates that these two groups tend to live in different areas. *Id.* Other compared groups include blacks with hispanics (70.1), blacks with Asians (79.5), whites with hispanics (29.4) and whites with Asians (41.3). *Id.* According to isolation indices, 93.2% of whites live in an area heavily populated by whites and 74.7% of blacks live in an area heavily populated with blacks. *See id.* Hispanics with hispanics and Asians with Asians are 1.7% and 1.5%, respectively. *See id.*; *see also* Jomills Henry Braddock II & James M. McPartland, *Social-Psychological Processes that Perpetuate Racial Segregation: The Relationship Between School and Employment Desegregation*, 19 J. BLACK STUD. 267, 285-86 (1989); Dennis D. Parker, *Are Reports of Brown's Demise Exaggerated? Perspectives of a School Desegregation Litigator*, 49 N.Y.L. SCH. L. REV. 1069 (2004); Daria Roithmayr, *Locked in Segregation*, 12 VA. J. SOC. POL'Y & L. 197 (2004).